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## FINDINGS OF FACT

1. The Arizona Board of Psychologist Examiners is authorized to regulate the practice of psychology in Arizona pursuant to A.R.S. § 32-2061, *et seq.*

2. Jay R. Heisler, Ph.D. is the holder of License No. 3602 for the practice of psychology in the State of Arizona.

3. On November 16, 2001, Dr. Heisler was denied licensure by the Alabama Board of Examiners in Psychology.

4. On January 11, 2002, after an Informal Reconsideration of Dr. Heisler's application, the Alabama Board of Examiners in Psychology continued the denial of the application.

5. On June 25, 2002, Dr. Heisler applied for licensure with the Kentucky State Board of Examiners of Psychology.

6. On July 12, 2002, the Alabama Board of Examiners in Psychology granted continuance of the formal hearing for Dr. Heisler and accepted the consent order proposed by Dr. Heisler and his attorneys. Dr. Heisler signed the order, agreeing that he had read it and understood its terms after consultation with his legal counsel. Dr. Heisler further agreed to the order's terms in their entirety and waived his right to notice and a formal administrative appeal of the denial of his application for licensure.

7. On May 12, 2003, Dr. Heisler passed the Examination for Professional Practice in Psychology for the state of Kentucky.

8. On July 7, 2003, the Arizona Board of Psychologist Examiners ("Board") received an application for licensure from Dr. Heisler. Dr. Heisler answered "yes" to question number 8 on the application that asked "Have you ever taken the national examination in psychology (EPPP), including exams taken in Arizona? If yes, list all states, dates and scores." Dr. Heisler wrote on the form "KY - 5/12/03" and also indicated his exam score. Dr. Heisler answered "no" to question number 9 of the application form that asked "Have you made application to any other state or Canadian province that you are not licensed in? If yes, attach an explanation and include dates." Dr. Heisler also answered "no" to question number 11 that asked "Has any state or province ever denied or rejected your application a professional license, certification or registration?"

9. On September 9, 2003, in response to an e-mail from Dr. Heisler requesting an update on the status of his application, the Board contacted Dr. Heisler and asked him to explain how he was able to take the

1 Examination for Professional Practice ("EPPP") in Kentucky without having applied for licensure in any state.

2 10. On September 10, 2003, Dr. Heisler responded to the Board that when he filled out the  
3 application for Arizona, he had not yet applied or taken the EPPP anywhere; so the information on the Arizona  
4 application was accurate.

5 11. On September 10, 2003, Dr. Heisler again contacted the Board and stated that:

6 I just went back and looked at the copy of AZ application for licensure. I did mention  
7 on number 8 that I had taken the EPPP in KY but followed in by answering number 9  
8 indicating that I had not made application in another state. Numebr (sic) nine was in  
error. Sorry about that. Can you please change number nne (sic) for me to a "yes"  
response?

9 12. On September 10, 2003, the Board e-mailed Dr. Heisler and asked him to provide a statement  
10 to explain that his original answer to question number nine on the application was in error.

11 13. On September 10, 2003, Dr. Heisler sent an e-mail to the Board that stated that the following  
12 correction should be made to his application for licensure as psychologist in Arizona:

13 On the "General Information" sheet, I incorrectly marked the "no" box in response to  
14 number nine which asks if I have made application to another state. This was a simple  
error; I had applied to Kentucky on 06/25/02. If you will note on number eight of the  
15 same document, I marked "yes" as to having had taken the EPPP, and I included the  
state abbreviation (KY) for the state of Kentucky, the date I took the exam, and my  
score results. I hope this clarifies any confusion that may arise concerning this issue.

16 14. On September 10, 2003, the Board responded by e-mail to Dr. Heisler thanking him for the  
17 clarification and asking him to provide information as to the status of his application in Kentucky.

18 15. On September 10, 2003, Dr. Heisler responded by e-mail that his licensure in Kentucky was still  
19 pending. Dr. Heisler stated that he had completed everything except the oral exam (clinical and jurisprudence),  
20 and further stated that he was not licensed to practice psychology in any state or jurisdiction.

21 16. On November 3, 2003, Dr. Heisler was licensed by the Arizona Board of Psychologist  
22 Examiners.

23 17. On December 12, 2003, Dr. Heisler was licensed by the Kentucky State Board of Examiners of  
24 Psychology.

25 18. On March 3, 2004, the Board received documentation that Dr. Heisler had made previous  
26 application to the Alabama Board of Examiners in Psychology and was denied licensure there. This  
27 documentation included the consent order Dr. Heisler signed with the Alabama Board of Examiners in  
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1 Psychology agreeing that if he were to be licensed by two other jurisdictions and pass the EPPP, the  
2 residency criteria of the Alabama law which was the basis for his denial in Alabama would no longer be  
3 applicable under *Ala. Code §34-26-41(d) (1975)* and *Alabama Board of Examiners in Psychology*  
4 *Administrative Code, Rule 750-X-2-.08(2)*.

5 19. On March 10, 2004, the Arizona Board of Psychologist Examiners received documentation from  
6 the Kentucky State Board of Examiners of Psychology showing that Dr. Heisler answered "No" to question #1  
7 which asked "Have you been denied licensure/certification in any state/jurisdiction?" on the *Candidate Status*  
8 form of the application he submitted to Kentucky on June 25, 2002. The Arizona Board of Psychologist  
9 Examiners' correspondence with the Kentucky State Board of Examiners of Psychology indicates that they too  
10 were not aware that Dr. Heisler had been denied licensure in Alabama.

11 **CONCLUSIONS OF LAW**

12 1. The Board of Psychologist Examiners of the State of Arizona possesses jurisdiction over the  
13 subject matter hereof and Jay R. Heisler, Ph.D.

14 2. The conduct and circumstances described above constitute a violation of A.R.S. § 32-  
15 2061(A)(13)(j) – Making a fraudulent or untrue statement to the Board or its investigators, staff or consultants.

16 **ORDER**

17 Based on the foregoing Consent Agreement, Findings of Fact, and Conclusions of Law, IT IS ORDERED  
18 issuing a Decree of Censure to Jay R. Heisler, Ph.D.

19 DATED this 18<sup>th</sup> day of August 2004.

20 ARIZONA BOARD OF  
21 PSYCHOLOGIST EXAMINERS

22 By Maxine McCarthy  
23 Maxine McCarthy  
24 Executive Director  
25 1400 West Washington Street, Suite 235  
26 Phoenix, Arizona 85007  
27 (602) 542-8162  
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**COPY** of the foregoing mailed by certified mail  
No. 7001 1140 0000 7478 0022  
this 18<sup>th</sup> day of August, 2004 to:

Jay R. Heisler, Ph.D.  
Address of record

**COPY** of the foregoing faxed and mailed  
this 18<sup>th</sup> day of August, 2004 to:

R. Marcus Givhan, Attorney for Dr. Heisler  
Johnston Barton Proctor & Powell LLP  
2900 AmSouth/Harbert Plaza  
1901 Sixth Avenue North  
Birmingham, Alabama 35203-2618  
(205) 458-9500

**COPY** of the foregoing sent by interagency/regular mail  
this 18<sup>th</sup> day of August, 2004 to:

Nancy J. Beck, Assistant Attorney General  
Office of the Attorney General, Civil/LES  
1275 West Washington  
Phoenix, Arizona 85007

By Shari S. Courtray