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2 **BEFORE THE BOARD OF PSYCHOLOGIST EXAMINERS**
3 **FOR THE STATE OF ARIZONA**
4
5

6 In the Matter of

7 Michael Johnson, Ph.D.

8 Holder of License No. PSY-003462
9 For the Practice of Psychology
10 in the State of Arizona
11

Case No.: 18-11

**CONSENT AGREEMENT AND
ORDER FOR PROBATION,
SUPERVISION AND CONTINUING
EDUCATION**

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13 On December 7, 2018, the Arizona Board of Psychologist Examiners ("Board") met in
14 open session to discuss the above-referenced case. Michael Johnson, Ph.D. ("Respondent")
15 was present with his legal counsel, Mandi Karvis. After discussion, consideration, and
16 deliberation, the Board voted to enter into a Consent Agreement in lieu of commencing an
17 Informal Interview in Complaint No. 18-11.

18 **JURISDICTION**

19 1. The Board is the state agency authorized pursuant to Arizona Revised Statute
20 ("A.R.S.") § 32-2061 *et seq.*, and the rules promulgated thereunder in the Arizona
21 Administrative Code ("A.A.C." or "rules") at R4-26-101 *et seq.*, to regulate and control the
22 licensing of psychologists in the State of Arizona.

23 2. Respondent is the holder of license number PSY-003462 for the practice of
24 psychology in the State of Arizona

25 3. The Board has personal and subject-matter jurisdiction over Respondent
26 pursuant to A.R.S. § 32-2061 *et seq.*, and the rules at A.A.C. R4-26-101, *et seq.*

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4. The Board and Respondent enter into this Consent Agreement to promptly and judiciously resolve these matters, consistent with the public interest and the statutory requirements of the Board.

6. Respondent has a right to a formal public hearing concerning this case where he could present evidence and cross-examine witnesses. Respondent irrevocably waives any right to such a hearing upon this Consent Agreement becoming effective.

8. Although Respondent does not agree that all of the allegations in Complaint No. 18-11 are supported by the evidence, Respondent acknowledges that it is the Board's position that if these matters proceeded to formal hearing, the Board could offer sufficient evidence to support a conclusion that certain of Respondent's conduct constituted unprofessional conduct. Therefore, Respondent has agreed to enter into this Consent Agreement as an economical and practical means of resolving the issues alleged in the Complaints.

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10. The Consent Agreement, once approved by the Board, evidenced by the signature of the Executive Director or her designee and signed by the Respondent, shall constitute a public record that may be disseminated as a formal action of the Board and shall be reported to the National Practitioner Data Bank.

11. Respondent voluntarily enters into this Consent Agreement for the purpose of avoiding the expense, uncertainty, and prolonged time involved in further administrative proceedings. The issues contained herein are resolved by settlement and not actually litigated. Any allegations and findings herein may not be used for *res judicata* or collateral estoppel effect in any subsequent civil proceedings for any claims of professional liability or negligence by or on behalf of Complainant(s).

FINDINGS OF FACT

12. On April 20, 2018, the Board received Complaint No. 18-11 that alleged acts of unprofessional conduct that, if found by the Board to be factually supported, could justify the Board taking action against Respondent.

13. The allegations in Complaint No. 18-11 raise issues concerning Respondent's evaluation and treatment of J.V. who he began treating in September 2010.

14. The allegations raise issues concerning Respondent's evaluation of an examinee; inadequate business or professional records; lack of boundaries with patient; possibly practicing psychology while impaired; providing services that are unnecessary or unsafe or otherwise engaging in activities as a psychologist that are unprofessional by current standards of practice; and possible violations of ethical standards related to boundaries of competence and multiple relationships.

15. Respondent began treating J.V. in September 2010 for sex-addiction. Respondent acknowledged that he is not an expert in sex-addiction nor has he ever treated sex-addiction.

16. In March 2013, J.V. reported to Respondent that they had a sexual encounter at their last session.

17. Respondent does not recall any sexual encounter but, Respondent admits that he was taking pain medication on the date in question. Respondent admitted that while taking the pain medication he could not recall details of sessions he had with patients.

18. Respondent acknowledged that there were other boundary issues throughout his treatment of J.V. such as allowing J.V. to give him a goodbye kiss on the cheek after a session.

19. Two days after J.V. reported the sexual encounter to Respondent, Respondent talked to J.V. about referral to a new therapist due to boundary issues.

20. Respondent continued treating J.V. until May 20, 2013.

21. During the Board's review of Respondent's records it was noted that Respondent's record keeping is not up to current standards of practice.

22. Respondent has indicated that, since the events that gave rise to the allegations in these complaints, Respondent has taken steps to implement new practices that directly address the concerns implicated in these matters. Among other measures, Respondent has attended continuing education courses in the areas of ethics and boundaries. He reported that he recently began a program of better self-care and will consult more often with other psychologists. In addition, he will no longer treat patients for sex addiction.

CONCLUSIONS OF LAW

23. The conduct and circumstances described above in the Complaint, if supported by the facts alleged, would constitute unprofessional conduct pursuant to: 1) A.R.S. §32-2061(h), for possibly failing or refusing to maintain and retain adequate business, financial or professional records pertaining to the psychological services provided to a client or patient; 2) A.R.S. § 32-2061(16)(l), for possibly practicing psychology while impaired or incapacitated to the extent and in a manner that jeopardized the welfare of the client or patient or renders the psychological services provided ineffective; 3) A.R.S. §32-2061 (o) for possibly providing services that are unnecessary or unsafe or otherwise engaging in activities as a psychologist that are unprofessional by current standards of practice; and 4) A.R.S. § 32-2061(16)(dd), for possibly violating an

1 ethical standard adopted by the Board, as it pertains to the American Psychological Association's
2 2002 Ethical Standards of Psychologists and Code of Conduct, Standards 2.01 (Boundaries of
3 Competence); and 3.05 (Multiple Relationships).

4 **ORDER FOR PROBATION AND SUPERVISION**

5 24. Pursuant to A.R.S. § 32-2081(S) the Board has determined that the Respondent's
6 conduct in Complaint No. 18-11 warrants disciplinary action. Based on the foregoing Findings
7 of Fact and Conclusions of Law, IT IS ORDERED THAT:

8 25. **PROBATION:** Respondent's license as a psychologist is placed on probation for
9 a minimum period of one year from the effective date of this Consent Agreement, unless
10 otherwise ordered by the Board. The effective date of this Consent Agreement is the date that it
11 is signed by the Board's Executive Director, or her designee, on behalf of the Board.

12 26. **CONTINUING EDUCATION:** Prior to the end of the term of probation and, in
13 addition to the continuing education requirements that are required by rule for license renewal,
14 Respondent shall complete an additional eighteen (18) hours of continuing education to address
15 the issues raised in the Complaint which includes record keeping and/or maintaining business
16 records; progress notes; establishing and documenting treatments plans; and in the areas of ethics.
17 In addition, three (3) of the eighteen (18) required hours shall be in the area of Boundaries. All
18 continuing education courses must be pre-approved by the Board's Executive Director.
19 Respondent shall attend a minimum of 50% of the hours required by attending the courses in
20 person, the other 50% may be completed through online or distance learning. Within fourteen
21 (14) days of completing this continuing education, Respondent shall submit to the Board's
22 Executive Director the certificates of completion.

23 27. **PRACTICE MONITOR:** While on probation, Respondent shall work with a
24 Practice Monitor pre-approved by the Board's Executive Director and who will provide
25 professional guidance and input to Respondent with respect to his practice in evaluation and
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1 treatment of clients, maintaining appropriate professional boundaries, developing and
2 documenting treatment plans and record keeping.

3 28. Within twenty (20) business days of the effective date of this Consent Agreement,
4 Respondent shall enter into agreement with one of the following psychologists to serve as his
5 Practice Monitor, or Respondent may self-select a psychologist who is approved by the Board's
6 Executive Director. Respondent shall submit the name of the psychologist to the Board's
7 Executive Director for approval within ten (10) days of the effective date of this agreement. The
8 Practice Monitor shall have no familial or business relationship with Respondent:

9 Bhupin Butaney, Ph.D.

10 8360 E. Raintree Dr., Suite 235

11 Scottsdale, AZ 85260

12 480-993-3463

13
14 Deborah Lewis, Ph.D.

15 1313 E. Osborn, Suite 100

16 Phoenix, AZ 85014

17 602-799-6281

18
19 Lawrence Sideman, Ph.D.

20 2233 W. Dunlap Ave.

21 Phoenix, AZ 85021

22 602-216-3104

23 29. Respondent shall meet with the Practice Monitor at least twice per month for a
24 minimum of two hours each session during the probationary period. The Practice Monitor shall
25 review a minimum of six of Respondent's recent patient records during the course of the first six
26 months of the probationary period and discuss with Respondent the Monitor's findings,

1 conclusions, and recommendations for improvement. The Practice Monitor shall also discuss
2 Respondent's professional boundaries, treatment plans and progress notes and business record
3 keeping. Thereafter, the Practice Monitor shall review at least four of Respondent's patient
4 records during the course of the second sixth-month probationary period. The Practice Monitor
5 shall submit to the Board quarterly written reports of the meetings, to include topics covered and
6 any modifications made to Respondent's practice. The Practice Monitor shall provide written
7 reports to the Board 30 days after the end of each quarter. The first quarter shall begin on the
8 date of the first session between the Respondent and the Practice Monitor. Before the conclusion
9 of the probationary period, the Practice Monitor is to complete a final written report to the Board
10 summarizing his or her interaction with Respondent, topics discussed, areas of progress, matters
11 of remaining concern, and overall impressions. The final report shall be submitted to the Board
12 within 30 days of the end of the probation. Respondent shall present this Consent Agreement to
13 the Board-approved Practice Monitor before the first meeting. The first meeting between
14 Respondent and the Practice Monitor shall occur within 45 days of the effective date of this
15 Consent Agreement.

16 30. If, during the probationary period, the Practice Monitor is unable or unwilling to
17 continue to act as Respondent's Practice Monitor, within 10 business days of the Practice
18 Monitor's termination of the practice monitor relationship, Respondent shall contact the Board
19 in writing and request additional names of other potential Practice Monitors approved by the
20 Board. Respondent shall notify the Board of his new Practice Monitor within 20 business days
21 after the names of additional Practice Monitor(s) are provided.

22 31. **TERMINATION OF PROBATION:** At the end of one year, unless otherwise
23 ordered by the Board, Respondent may petition the Board, in writing, and request termination
24 from probation. If the Board determines that Respondent has not complied with the requirements
25 of this Consent Agreement, the Board may either (a) continue the probation, or (b) institute
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1 proceedings for noncompliance with this Consent Agreement, which may result in the
2 suspension, revocation, or other disciplinary or remedial action.

3 32. **CONTINUED APPLICATION OF TERMS:** If, between the effective date of
4 this Consent Agreement and the termination of Respondent's probation by the Board, Respondent
5 fails to renew his license while under this Consent Agreement and subsequently applies for a
6 license, the remaining terms of this Consent Agreement, including probation and monitoring,
7 shall be imposed if the application for licensure is granted.

8 33. **EFFECTIVE DATE:** Respondent understands that this Consent Agreement shall
9 not become effective unless and until adopted by the Arizona Board of Psychologist Examiners
10 and executed on behalf of the Board. Any modification to this original document is ineffective
11 and void unless mutually approved by the parties in writing.

12 34. **CONSIDERATION IN FUTURE ACTIONS:** Respondent understands that this
13 Consent Agreement, or any part thereof, may be considered in any future disciplinary action
14 against him.

15 35. **FINAL RESOLUTION:** This Consent Agreement constitutes a final resolution of
16 these disciplinary matters but does not constitute a dismissal or resolution of other matters
17 currently pending before the Board, if any, and does not constitute any waiver, expressed or
18 implied, of the Board's statutory authority or jurisdiction regarding any other pending or future
19 investigations, actions, or proceedings. Further, this Consent Agreement does not preclude any
20 other agency, subdivision, or officer of this State from instituting other civil or criminal
21 proceedings with respect to the conduct that is the subject of this Consent Agreement.

22 36. **TIME:** Time is of the essence with regard to this Consent Agreement.

23 37. **COSTS:** The Respondent shall be responsible for all costs incurred as a result of
24 his compliance with this Consent Agreement.


25 38. **NON-COMPLIANCE:** If Respondent fails to comply with the terms of this
26 Consent Agreement, the Board may properly institute proceedings for noncompliance, which

1 may result in suspension, revocation, or other disciplinary or remedial actions. Violation of this
2 Consent Agreement is a violation of A.R.S. § 32-2061(15)(aa) ("violating a formal board order,
3 consent agreement, term of probation or stipulated agreement").

4 39. **PUBLIC RECORD:** This Consent Agreement is a public record that may be
5 publicly disseminated as a formal action of the Board and reported to the National Practitioner
6 Data Bank.

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8 DATED THIS 23rd day of January, 2019.

9
10 ARIZONA BOARD OF
11 PSYCHOLOGIST EXAMINERS

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12 
13 Michael Johnson, Ph.D.
14 Respondent

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16 
17 Jenna Jones
18 Executive Director

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21 ORIGINAL of the foregoing filed this
22 23 day of January, 2019, with:

23 The Arizona State Board of Psychologist Examiners
24 1740 W. Adams St., Suite 3403
25 Phoenix, Arizona 85007

26
27 COPY mailed by US postal service (certified mail no. 7016 2146 0000 6959 3872)
28 this 23 day of January, 2019, to:

29 Michael Johnson, Ph.D.
30 Address on Record

1 COPY mailed by US postal service
2 this 23 day of January, 2019 to:

3 Mandi Karvis, Esq.
4 Wicker Smith, Attorneys At Law
5 One North Central Avenue, Ste. 885
6 Phoenix, AZ 85004

7 COPY of the foregoing emailed
8 this 23 day of January, 2019, to:

9 Jeanne M. Galvin, AAG
10 Arizona Attorney General's Office
11 SGD/LES
12 2005 North Central Ave.
13 Phoenix, Arizona 85004

14 By: Heather Broadus