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

4 In the Matter of

Case No. 18-08

5 Mark Magier, Psy.D.,

6 Holder of License No. PSY-004010  
7 For the Practice of Psychology  
8 In the State of Arizona.

**CONSENT AGREEMENT AND  
ORDER FOR PROBATION,  
PRACTICE MONITOR AND  
CONTINUING EDUCATION**

9  
10 In the interest of a prompt and judicious settlement of the above-captioned matter  
11 before the Arizona Board of Psychologist Examiners ("Board") and consistent with public  
12 interest, statutory requirements and responsibilities of the Board and pursuant to A.R.S. §  
13 32-2061 *et seq.*, and A.R.S. § 41-1092.07(F)(5), Mark Magier, Psy.D. ("Respondent"),  
14 holder of License No. PSY-004010 and the Board enter into this Consent Agreement,  
15 Findings of Fact, Conclusions of Law and Order ("Consent Agreement") as final  
16 disposition of this matter.

17 **JURISDICTION**

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

22 2. Respondent is the holder of license number PSY-004010 for the practice of  
23 psychology in the State of Arizona.

24 3. The Board has personal and subject matter jurisdiction over Respondent  
25 pursuant to A.R.S. § 32-2061, *et seq.*, and the rules of A.A.C. R4-26-101, *et seq.*  
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1 proceedings. The issues contained herein are resolved by settlement and not actually  
2 litigated. Any allegations and findings herein may not be used for res judicata or collateral  
3 estoppel effect in any subsequent civil proceedings for any claims professional liability or  
4 negligence by or on behalf of Complainant, Complainant's Family, or Representatives.

### 5 FINDINGS OF FACT

6 1. In October 2017, Complainant was ordered by the Maricopa County Superior  
7 Court to undergo a psychological evaluation.

8 2. Complainant contacted Respondent soon thereafter to discuss engaging him  
9 to conduct the evaluation. Initially, Respondent agreed to conduct the evaluation for a fee  
10 of \$2,500, after application of what Respondent asserts is his 50% discount for  
11 Complainant's status as a veteran.  
12

13 3. On January 10, 2018, the Maricopa County Superior Court appointed  
14 Respondent to conduct a psychological evaluation of the Complainant.

15 4. Subsequently, after receiving the court order appointing him, Respondent felt  
16 that the nature and scope of the evaluation was more extensive than he initially believed.  
17 As a result, he informed the Complainant that he would have to raise his fee from \$2,500  
18 to \$5,000, which again constituted a veteran discount fee according to Respondent.

19 5. Respondent informed Complainant that he could not move forward without  
20 a retainer.

21 6. Over the ensuing weeks, Respondent called and texted Complainant multiple  
22 times a day to schedule the evaluation and to make arrangements for payment of the  
23 retainer. Complainant's VA therapist has confirmed that Respondent called Complainant  
24 four times during a thirty minute session.  
25

26 7. Respondent explains that he was making multiple contacts as he had been  
27 told by Complainant that she did not always have her phone with her at work and, at other  
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1 times did not receive calls or texts therefore, Complainant asked him to call or text until  
2 they connected.

3 8. On January 8, 2018, Complainant received a text from Respondent seeking  
4 a loan of \$50,000.00 for a friend of Respondent.

5 9. Respondent has admitted to sending that text, but claims it was a mistake and  
6 that Complainant had accidentally been included as a recipient on the text intended for his  
7 personal, non-client acquaintances.

### 8 CONCLUSIONS OF LAW

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10 The conduct and circumstances described above constitute unprofessional  
11 conduct pursuant to:

12 a. A.R.S. § 32-2061(16)(o) engaging in activities as a psychologist that  
13 are unprofessional by current standards of practice.

14 b. A.R.S. § 32-2061(16)(dd) Violating an ethical standard adopted by  
15 the Board as it pertains to the American Psychological Association Ethical Principles of  
16 Psychologist and Code of Conduct, 5.06 In-Person Solicitation and 6.04 Fees and Financial  
17 Arrangements.

### 18 ORDER

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

21 1. Respondent's license is placed on probation for a minimum period of twelve  
22 (12) months from the effective date of this Consent Agreement and Order. The effective  
23 date of this Consent Agreement and Order is the date it is signed by the Board's Executive  
24 Director.

25 2. Respondent shall engage, at his cost, a Practice Monitor, pre-approved by the  
26 Board. Respondent shall consult, in person, with the Practice Monitor twice monthly for at  
27 least two (2) hours each session. The Practice Monitor shall provide the Board a written  
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1 summary of the consultations with Respondent quarterly. The Respondent shall not have a  
2 prior business or familial relationship with the Practice Monitor.

3 3. Within ten (10) days of the effective date of this Consent Agreement and  
4 Order, the Respondent shall select one of the following Practice Monitors:

5 a. Deborah Lewis, Ph.D.  
6 1313 E. Osborn Rd.  
7 Ste. 100  
8 Phoenix, AZ 85014  
602-799-6281

9 b. Christopher Nicholls, Ph.D.  
10 9965 North 95<sup>th</sup> Street  
11 Ste. 101  
12 Scottsdale, AZ 85258-4594  
480-998-2303

13 c. Bhupin Butaney, Ph.D.  
14 14354 North Frank Lloyd Wright Blvd.  
15 Ste. 1  
16 Scottsdale, AZ 85260-8844  
480-993-3463

17 4. Within three (3) days of the selection of the Practice Monitor, the Respondent  
18 shall notify the Board of the Practice Monitor he has engaged pursuant to this Order.

19 5. Prior to the termination of probation, Respondent shall complete continuing  
20 education, pre-approved by the Board's Executive Director for a total of eighteen (18)  
21 hours. The continuing education shall address the APA Ethics Code violations identified  
22 above and shall not be counted toward the continuing education hours required for the  
23 renewal of Respondent's license. Respondent shall provide proof of completion of the  
24 continuing education hours to the Board within fourteen (14) days of the completion of the  
25 continuing education hours.

26 6. Respondent shall petition the Board for release from this agreement upon the  
27 expiration of the twelve (12) month probationary period. The Board shall release  
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1 Respondent from this Consent Agreement upon Respondents showing compliance with all  
2 terms of this probation as determined by the Board.

3 **EFFECTIVE DATE:** Respondent understands that the foregoing Consent  
4 Agreement shall not become effective unless and until adopted by the Board of  
5 Psychologist Examiners and executed on behalf of the Board. The effective date of the  
6 Consent Agreement is the date it is signed by the Executive Director. Any modifications  
7 to this original document is ineffective and void unless mutually approved by the parties  
8 in writing.

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

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

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


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

25 **NON-COMPLIANCE:** If Respondent fails to comply with the terms of this  
26 Consent Agreement, the Board shall properly institute proceedings for noncompliance with  
27 this Consent Agreement, which may result in suspension, revocation, or other disciplinary

1 and/or remedial actions. Violation of this Order is a violation of A.R.S. § 32-2061(16)(aa),  
2 which is "violating a formal Board order, consent agreement, term of probation or  
3 stipulated agreement."

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

8 DATED this 27<sup>th</sup> day of march, 2019.

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12  
13 Mark Magier, Psy.D.  
14 Respondent

Arizona Board of  
Psychologist Examiners

  
Jenna Jones  
Executive Director

15 ORIGINAL of the foregoing filed this  
16 27<sup>th</sup> day of march, 2019 with:

17 The Arizona State Board of Psychologist Examiners  
18 1740 West Adams Street, Suite 3403  
19 Phoenix, Arizona 85007

20 COPY mailed by Certified Mail, No. 7016 2146 0006 959 3896  
21 this 27<sup>th</sup> day of march, 2019, to:

22 Mark Magier, Psy.D.  
23 Address on Record

24 COPY of the foregoing mailed  
25 this 27<sup>th</sup> day of march, 2019, to:

26 Charles S. Hover, III  
27 Renaud Cook Drury Mesaros, P.A.  
28 One N. Central, Ste. 900  
Phoenix, AZ 85004



1 Attorneys for Mark Magier, Ph.D.

2 COPY of the foregoing mailed  
3 this 27<sup>th</sup> day of March, 2019, to:

4 Jeanne M. Galvin  
5 Assistant Attorney General  
6 Office of the Attorney General  
7 2005 North Central Ave., SGD/LES  
8 Phoenix, AZ 85004  
9 Attorneys for the Board

10 By Heather Braddus

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