

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

3
4 In the Matter of:) Case No. 13F-1228-SYA
5)
6 Anthony Luick, Ph.D.) ORDER DENYING REQUEST FOR
7 Respondent) REHEARING
8)
9)
10)
11)
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15)

16 On December 11, 2013, the Arizona Board of Psychologist Examiners met in open session to
17 consider Dr. Anthony Luick's ("Respondent") request for rehearing or review of the Board's Amended
18 Order of October 19, 2015. The Respondent was not represented by counsel. The State was represented
19 by Assistant Attorney General, Elizaeth Campbell. Christopher Munns of the Solicitor General's Office
20 was present to provide independent legal advice to the Board. After full consideration of the record in
21 this matter and the arguments of the parties, the Board voted to DENY Respondent's request for
22 rehearing. Respondent has set forth no grounds upon which a rehearing should be granted.

23 **ORDER**

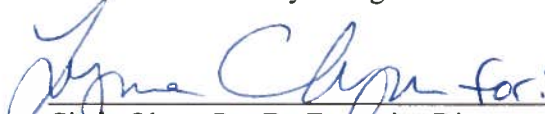
24 Respondent's Motion for Rehearing is DENIED. The Board's Amended Order of October 19,
25 2015, remains in effect.

26 **NOTICE**

27 Respondent is notified that this Order is the final administrative decision of the Board and that
28 Respondent has exhausted his administrative remedies. Respondent is advised that an appeal to superior
court may be taken from this decision pursuant to A.R.S. §§ 12-901, *et. seq.* within thirty-five (35) days
from the date this decision is served.

Dated this 21st day of December, 2015

Arizona Board of Psychologist Examiners


Cindy Olvey, Psy.D., Executive Director

ORIGINAL of the foregoing filed this
21st day of December, 2015, with:

The Arizona Board of Psychologist Examiners
1400 W. Washington, Ste. 240
Phoenix, AZ 85007

1 COPY of the foregoing mailed
2 by U.S. Mail, and certified mail this
3 21st day of December, 2015, to:

3 Anthony Luick Certified Mail # 7009 2250 0002 71705861
4 Address of Record

5 Thomas Slutes, Esq. Certified Mail # 7009 2250 0002 71705878
6 Slutes Sakrison & Rogers PC
7 4801 E Broadway Blvd., Ste. 301
8 Tucson, AZ 85711-0001

8 Jeanne Galvin, Esq. Certified Mail # N/A
9 Assistant Attorney General
10 1275 West Washington
11 Phoenix, Arizona 85007

11 Copies of the foregoing sent by interagency mail
12 21st day of December, 2015, to:

13 Christopher Munns, Esq.
14 Solicitor General's Office
15 1275 West Washington
16 Phoenix, Arizona 85007

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

4 In the Matter of:) Case No. 13F-1228-SYA
5)
6 Anthony Luick, Ph.D.) (Civil No. C20135533)
7 Respondent) AMENDED FINDINGS OF FACT,
8) CONCLUSIONS OF LAW AND
9) ORDER FOR DECREE OF
10) CENSURE

11 On October 7, 2015, the Arizona Board of Psychologist Examiners (“Board”) met in open
12 session to reconsider its August 12, 2013, Final Order in Case No. 13F-1228-SYA, regarding Anthony
13 Luick, Ph.D. (“Respondent”). In Case No. 13F-1228-SYA, after a formal administrative hearing before
14 the Office of Administrative Hearings (“OAH”), the Board concluded that Respondent had engaged in
15 certain acts of unprofessional conduct and issued Respondent an Order for Decree of Censure.
16 Respondent appealed the Board’s Final Order. On February 17, 2015, after a May 21, 2014, Evidentiary
17 hearing before Judge Gus Aragon of the Pima County Superior Court, the Court ordered the Board to
18 reconsider its Final Order "in light of the supplemental evidence offered on appeal¹."

19 Respondent appeared and was represented by counsel, Thomas Slutes, who was present
20 telephonically. The State appeared and was represented by Assistant Attorney General, Jeanne Galvin.
21 Christopher Munns of the Solicitor General’s Office was present to provide independent legal advice to
22 the Board. Ms. Galvin presented oral argument. After consulting with his legal counsel, Respondent
23 presented oral argument in lieu of presentation by his legal counsel. Ms. Galvin presented a rebuttal to
24 Respondent’s oral argument.

25 In the Board’s reconsideration of this matter, Board members reviewed records including the
26 briefs, pleadings, transcript and exhibits pertaining to the May 21, 2014, Evidentiary Hearing; Judge
27 Aragon’s February 17, 2015, Ruling regarding Respondent’s appeal; the briefs, pleadings, transcript and
28 exhibits pertaining to the May 20 – 21, 2013, OAH Formal Hearing; the June 27, 2013, OAH
29 Administrative Law Judge (“ALJ”) Decision; the Board’s August 12, 2013, Modification of the ALJ’s
30 Findings of Fact, Conclusions of Law and Recommended Order; and Ms. Galvin’s May 19, 2015,

¹ February 17, 2015, Minute Entry at p. 6.

1 Notice of Filing Proposed Order and State's Proposed Form of Order, to which Respondent did not file
2 a reply.

3 After consideration of the oral arguments by both parties and in consideration of the records
4 reviewed in this matter, the Board voted to modify its August 12, 2013, Final Order as below, wherein
5 the Board's Findings of Fact and Conclusions of Law contained in its original Order of August 12,
6 2013, are incorporated, with additional Findings of Fact appearing in **bold**:

7
8 **FINDINGS OF FACT**

9 1. The Arizona Board of Psychologist Examiners (the Board) has the authority to regulate
10 and control the licensing of psychologists in the state of Arizona pursuant to A.R.S. § 32-2061 *et seq.*
11 The Board also has the authority to impose disciplinary sanctions against the holders of licenses for
12 unprofessional conduct under A.R.S. § 32-2081.

13 2. Respondent Anthony H. Luick, Ph.D., was licensed as a psychologist in the State of
14 Arizona in 1978.

15 3. On November 5, 2002, the Board entered a Decree of Censure and Order for Civil
16 Penalty against Respondent due to improper billing and failure to maintain adequate records.

17 4. On July 16, 2012, the Board received a complaint from L.S., formerly known as L.R.,
18 alleging that Respondent had engaged in an inappropriate relationship with her son, R.L., and provided
19 legal advice to help R.L. avoid punishment for a crime he had committed.

20 5. The Board referred the matter to the Office of Administrative Hearings, an independent
21 agency, for an evidentiary hearing because Respondent declined to attend an Informal Hearing before
22 the Board and requested the matter to go directly to a formal hearing. (TR, Vol. I, at p. 145, lines 1-4).

23 6. The Board alleged in the Complaint and Notice of Hearing that Respondent committed
24 unprofessional conduct as defined by A.R.S. § 32-2061(13)(e);² A.R.S. § 32-2061(13)(o);³ and A.R.S. §
25 32-2061(13)(dd),⁴ and by violating the Ethical Principles of Psychologists and Code of Conduct of the

26
27 ² A.R.S. § 32-2061(13)(e) defines "unprofessional conduct" to include "[g]ross negligence in the practice of a
psychologist."

28 ³ A.R.S. § 32-2061(13)(o) defines "unprofessional conduct" to include "[p]roviding services that are unnecessary
29 or unsafe or otherwise engaging in activities as a psychologist that are unprofessional by current standards of
practice."

30 ⁴ A.R.S. § 32-2061(13)(dd) defines "unprofessional conduct" to include "[v]iolating an ethical standard adopted by
the board."

1 American Psychological Association, as adopted by the Board in A.A.C. R4-26-301,⁵ and as set forth in
2 Ethical Standard 3.05 relating to multiple relationships.⁶

3 7. A hearing was held on May 20, 2013, and May 21, 2013. The Board submitted 13
4 exhibits and presented the testimony of four witnesses:⁷ (1) Respondent, (2) Ms. S., (3) Megan Martin,
5 Deputy Director of the Board, and (4) Dr. David McPhee, Board Consultant. Respondent submitted two
6 exhibits, testified on his own behalf and presented the testimony of two witnesses: (1) Dr. Ralph H.
7 Wetmore, II, and (2) Dr. Bernard Engelhard.

8 8. Respondent began seeing R.L. as a patient in September 2011. R.L. had issues with
9 drug use, academics, and problems with his parents including Ms. S.'s alcoholism. At the time, R.L.
10 was 17 years old. Ms. S. refused to pay towards the therapy because Respondent was not a provider
11 covered by R.L.'s insurance.

12 9. After three sessions, R.L. withdrew from treatment for financial reasons.

14 ⁵ A.A.C. R4-26-301 provides:

15 A psychologist shall practice psychology in accordance with the ethical standards
16 contained in standards 1.01 through 10.10 of the "Ethical Principles of
17 Psychologists and Code of Conduct" adopted by the American Psychological
18 Association effective June 1, 2003, the provisions of which are incorporated by
reference.

19 The Complaint and Notice of Public Hearing incorrectly identified A.A.C. R426-301 as A.A.C. R4-26-303.
Respondent did not raise any issue regarding notice of the allegation.

20 ⁶ Ethical Standard 3.05 of the Ethical Principles of Psychologists and Code of Conduct adopted by the American
Psychological Association effective June 1, 2003, provides:

21 **3.05 Multiple Relationships**

22 (a) A multiple relationship occurs when a psychologist is in a professional role with
23 a person and (1) at the same time is in another role with the same person, (2) at the
24 same time is in a relationship with a person closely associated with or related to the
person with whom the psychologist has the professional relationship, or (3)
promises to enter into another relationship in the future with the person or a person
closely associated with or related to the person.

25 A psychologist refrains from entering into a multiple relationship if the multiple
26 relationship could reasonably be expected to impair the psychologist's objectivity,
27 competence or effectiveness in performing his or her functions as a psychologist, or
otherwise risks exploitation or harm to the person with whom the professional
relationship exists.

28 *Multiple relationships that would not reasonably be expected to cause impairment
29 or risk exploitation or harm are not unethical.*

30 Emphasis added (in the original).

⁷ R.L. and R.L.'s father were both subpoenaed by the Board, but neither appeared at the hearing.

1 10. In March 2012, R.L. was found to be in possession of marijuana in his car at school.
2 R.L. was not arrested at the time of the incident because R.L. was less than one month away from his
3 18th birthday, but the officer advised R.L. that after he turned 18, R.L. should turn himself in to be
4 charged as an adult.

5 11. R.L.'s father determined R.L. should return to therapy with Respondent.

6 12. R.L. and his father explained the legal situation to Respondent. Respondent informed
7 R.L. he should seek legal advice from an attorney. Respondent called an attorney he knew and asked if
8 he would be willing to consult with R.L. with respect to the matter. R.L. and his father then spoke with
9 the attorney.

10 13. Ms. S. understood that Respondent told R.L. that he did not have to turn himself in
11 when he turned 18 because the police officer did not give him any documentation to that effect. Ms. S.
12 also understood that Respondent had told R.L. that Respondent would be able to help R.L. avoid
13 punishment if R.L. continued attending therapy.

14 14. According to Respondent's notes, he spoke to Ms. S. on March 20, 2012, regarding
15 R.L.'s options with the marijuana charge. Ms. S. indicated her desire that R.L. be arrested and put in
16 jail to face the consequences of his actions. Respondent stated it was detrimental to R.L. for him to start
17 his adult life in jail for a felony. According to Respondent, Ms. S. became angry and "was almost in
18 total rage." Respondent concluded there was "[n]o outlet to discuss options rationally with" Ms. S.
19 Exhibit 3 p. 147.

20 15. On April 3, 2012, R.L.'s father asked Respondent to speak to the police officer involved
21 regarding R.L.'s options. As R.L. was turning 18 on April 4, 2012, Respondent agreed.

22 16. The officer informed Respondent that R.L. could be arrested on two felony charges as
23 he had drugs and paraphernalia within 1000 feet of school grounds. Respondent informed the detective
24 that R.L. was in therapy and that he was being enrolled in a 30 day treatment program. As this was
25 R.L.'s first involvement with the legal system, the officer agreed not to process the arrest warrant as
26 long as R.L. was compliant with treatment. Exhibit 3 p. 148-50.

27 17. When R.L. turned 18, he refused to turn himself in to the police despite Ms. S.'s
28 insistence that he do so.

29 18. During the course of his therapy, R.L. had made references to not being happy in his
30 home life and wishing he could live with Respondent. Respondent testified it was not uncommon for

1 children with a troubled home life to express a desire to live with someone else, including Respondent.

2 19. On July 9, 2012, R.L. called Respondent "in crisis" regarding a session with his father
3 that was to take place the following day.

4 20. At the time R.L. called, Respondent had just returned from vacation to find that the
5 electricity and phone lines at his office were not working properly. One phone line was out and one
6 phone line had intermittent service. The electricity was working intermittently throughout his office and
7 the air conditioning was not working. The office was over 90 degrees due to the lack of air
8 conditioning.

9 21. Respondent told R.L. to meet at Respondent's house that evening and they would
10 address his goals regarding the upcoming session. Respondent also advised R.L. to bring a change of
11 clothes so he could spend the night at his father's house rather than make the extended drive to and from
12 his mother's house that evening and the following morning for the session. The evidence established
13 Ms. S. lived closer to Respondent's office than he believed at the time. Either Respondent was not clear
14 or R.L. misunderstood and believed Respondent invited him to spend the night at his house.

15 Respondent's progress notes for this day do not mention the conditions of Respondent's office
16 (i.e., intermittent electricity and no air conditioning) that Respondent claims necessitated R.L. coming to
17 Respondent's home or that Respondent invited R.L. to his home or that R.L. was at Respondent's home
18 for any length of time. Respondent also failed to note in the medical records that he told R.L. to bring a
19 change of clothes with him. (Exhibit 3, pp. 166-167).

20 22. R.L. told his father that he was spending the night at Respondent's house. R.L.
21 informed Ms. S. that he was having dinner with Respondent.

22 23. R.L. left Ms. S.'s home between 5:00 p.m. and 5:15 p.m. the evening of July 9, 2012.

23 24. Ms. S. was "alarmed" by the idea of R.L. having dinner with Respondent. Ms. S.
24 contacted R.L.'s father and asked if he thought it was odd that R.L. and Respondent were going to
25 dinner. R.L.'s father responded that he thought it was weird R.L. was going to spend the night at
26 Respondent's house.

27 25. When R.L. arrived at Respondent's home, Respondent clarified that he was not able to
28 spend the night there due to the necessary boundaries to be maintained between a therapist and client
29 and that Respondent was suggesting earlier that R.L. spend the night at his father's house.

30 26. Respondent did not have any specific recollection as to when R.L. arrived at his home,

1 but testified that they left to go to a restaurant "within minutes" of R.L.'s arrival. Ms. S. testified as to
2 her belief that R.L. was at Respondent's home for approximately two hours on the evening of July 9,
3 2012, based on information she gathered from her cellular phone.

4 27. Respondent took R.L. to this office to administer a drug test prior to going to the
5 restaurant. The drug test was negative.

6 28. After Ms. S. spoke to R.L.'s father, she began calling R.L. to determine his location.
7 R.L. did not answer his cell phone, and Ms. S. was unable to leave a voicemail message.

8 29. According to the transcribed text messages provided by Ms. S., she first texted R.L. at
9 6:37 p.m. that evening asking R.L. to call her immediately. Ms. S. texted R.L. three more times before
10 R.L. responded at 7:46 p.m. that he and Respondent were "going to Pei Wei and working on [his]
11 goals." Exhibit 8

12 30. When Ms. S. asked if R.L. was going to spend the night at Respondent's, R.L.
13 responded, "I'm not going to" and that he would "be home by 9:30."

14 31. Ms. S. continued sending text messages to R.L. throughout the evening implying that
15 Respondent was trying to take advantage of and to engage in a sexual relationship with R.L. Ms. S. also
16 made statements including, "Tell him to kiss his license goodbye," and "The cops will be setting his
17 appointment." R.L. invited her to the session the following day, but Ms. S. refused. R.L. also stated
18 that Ms. S. must be drunk to be drawing such conclusions.

19 32. Ms. S. denied being intoxicated on the night of July 9, 2012.

20 33. R.L. attended the scheduled session on July 10, 2012. Following that, R.L. attended a
21 session on July 24, 2012. R.L. reported to Respondent that he was unable to attend a session on July 31,
22 2012, because Ms. S. would not let him out of the house and had threatened to have him arrested.

23 34. R.L. did not use marijuana during the time he was in therapy with Respondent from
24 March 2012 through July 2012. Ms. S. denied any knowledge of R.L.'s sobriety during that time. Ms.
25 S. admitted she was not aware of the reason R.L. was attending therapy because she and R.L.'s father
26 "don't speak."

27 35. After leaving therapy, R.L. was using marijuana daily and was fired from his job in
28 August 2012 when he was observed smoking marijuana in his car.

29 36. On April 1, 2013, R.L. returned to therapy with Respondent. At the time of the hearing,
30 Respondent's last session with R.L. was on April 8, 2013.

1 37. During the Board's investigation, it reviewed Respondent's records concerning R.L.

2 38. In reviewing email correspondence between Respondent and R.L., the Board identified
3 additional concerns regarding Respondent's relationship with R.L.

4 39. Specifically, Respondent closed an email to R.L. on Jun 25, 2012, with "Tuesday is
5 Tony day. Love ya." (Exhibit 13 p. 238). In an email to R.L. after August 5, 2012, Respondent stated
6 "if you have relapsed, I will totally understand given mom's recent behaviors, but you need to step up
7 and begin anew." (Exhibit 13 p. 240). The Board argued the emails and other correspondence indicated
8 a longstanding pattern of Respondent improperly aligning himself with R.L. against Ms. S.

9 40. On April 30, 2013, Respondent submitted his Application for License Renewal
10 indicating he wished to retire by allowing his license to expire on April 30, 2013.

11 41. Respondent testified he had planned to retire since he last renewed his license in 2011.
12 Respondent has been gradually reducing his practice since that time. Respondent testified he had
13 accepted only one new client since September 2012.

14 42. The Board declined to accept Respondent's retirement status pending the outcome of
15 this matter.

16 43. Respondent testified that his relationship with R.L. did not constitute a multiple
17 relationship. (TR, Vol. I, pp 81-82). Further with respect to his handling of R.L's case, Respondent
18 testified that he thought he "handled this case better than most of the cases I handled. I was right on top
19 of it." (TR, Vol. I, p. 92).

20 44. According to the American Psychological Association, "A multiple relationship occurs
21 when a psychologist is in a professional role with a person and (1) at the same time is in another role
22 with the same person, (2) at the same time is in a relationship with a person closely associated with or
23 related to the person with whom the psychologist has the professional relationship, or (3) promises to
24 enter into another relationship in the future with the person or a person closely associated with or related
25 to the person.

26 A psychologist refrains from entering into a multiple relationship if the multiple relationship
27 could reasonably be expected to impair the psychologist's objectivity, competence, or effectiveness in
28 performing his or her functions as a psychologist, or otherwise risks exploitation or harm to the person
29 with whom the professional relationship exists.

30 Multiple relationships that would not reasonably be expected to cause impairment or risk

1 exploitation or harm are not unethical.” (Ex. 10, p. 212).

2 45. Dr. David McPhee, psychologist and Board expert testified on behalf of the State. Dr.
3 McPhee obtained his Bachelor’s degree from St. Thomas School of Divinity with a double major of
4 Philosophy and Latin; two Master’s Degrees also from St. Thomas, in Educational psychology and the
5 other in Divinity; a Doctor of Ministry degree with distinction in Pastoral Psychology and his Doctor of
6 Philosophy degree from the University of Minnesota in Psychology. In addition to various teaching
7 positions at the graduate level with the University of Minnesota, the University of St. Thomas and the
8 St. Paul seminary, Dr. McPhee is also a fellow of the Academy of Counseling Psychology and a
9 Diplomate with the American Board of Professional Psychology. He has been in private practice
10 (family forensics) since 1976. (TR, Vol I, at pp. 160-163, Exhibit 9).

11 46. Respondent’s assertion that he did not have a multiple relationship with R.L. is
12 outweighed by the evidence. Respondent had several relationships with R.L. that would normally not
13 be associated with psychotherapy. For example, Respondent assumed a very strong and passionate
14 advocacy role for R.L., sometimes in alliance with the father, but always in alliance against the mother.
15 Respondent also adopted an advocacy role in R.L.’s interests when Respondent formed the opinion that
16 it would be not in R.L.’s best interest to appear as ordered by the police relating to the pending drug
17 charges and Respondent conducted urinalysis drug screens on R.L. at his office. There was also a social
18 relationship of some kind, or at least an unexplained relationship characterized by multiple Skype
19 sessions, apparently telephone calls and text messages and other electronic communication that were not
20 documented and were not shown in anyway to be part of the treatment plan, or in fact to be treatment at
21 all. (TR, Vol. I, pp. 169-170).

22 47. With respect to any potential harm Respondent’s multiple relationship may have had on
23 R.L., the literature in this area suggests that to analyze potential harm of a multiple relationship one
24 must look at the condition of the client and the behavior of the therapist. R.L. was particularly
25 vulnerable to potentially harmful multiple relationships, far more than the average adult client. He
26 needed therapy from a therapist who was clear, consistent, who had impeccable boundaries and who
27 held him accountable. R.L. had trouble expressing himself, he was very needy emotionally and had an
28 emotionally absent, frequently intoxicated and abusive mother and a potentially ineffective and
29 somewhat passive father with whom he was frequently in crisis. Contrary to Respondent’s assertion, in
30 a well-boundaried therapy, it is not common for an adolescent client to ask to move in with a therapist.

1 (TR, Vol. I, pp. 172-174).

2 48. Further, Dr. McPhee's testimony relating to Respondent's therapeutic treatment of R.L.
3 suggested Respondent's practice of paying extra attention to Respondent making him feel special by
4 signing emails with "Tuesday is Tony Day" and "Love Ya" and blaming R.L.'s mother for preventing
5 therapy and for a suspected drug relapse contravenes any kind of theoretical or practical basis for
6 accountable chemical dependency and is counter-therapeutic. (TR, Vol I, pp. 174-175).

7 49. When you have an immature, loner, marijuana addict failing academically and socially
8 with high-conflict parents such as R.L., he's going to be highly vulnerable to an adult who presents
9 himself not as a psychotherapist with impeccable boundaries but as a special friend and advocate and
10 rescuer. Those three roles are highly incompatible in terms of psychotherapy. R.L. is the last patient
11 with whom it would be wise to have mushy, unclear multiple relationships. (TR, Vol I, pp. 175-177).
12 A multiple relationship is bad if a reasonable person might consider that it could potentially be harmful
13 to the person. The Ethical Code does not say a multiple relationship has to be harmful for it to be
14 considered unethical. (TR, Vol. I, p. 227).

15 50. According to Kootcher and Spiegel, cited by Dr. McPhee in support of his opinion that
16 Respondent's relationship with R.L. was ill-advised and potentially harmful, clients who have
17 experienced abuse of victimization may have difficulties with trust. They need very clear boundaries,
18 especially when they test the boundaries. Therapists who reassure such clients by taking them to lunch,
19 giving them gifts, disclosing detail from their own lives, may unwittingly collude with this patter,
20 thereby reinforcing the pathology. If the therapist responds as a rescuer, a totally inappropriate cycle
21 becomes enmeshed and the client will again experience the loss because the therapist can never replace
22 a parent. Psychodynamically, it is abandonment. (TR, Vol. I, p. 177).

23 51. The record contains numerous examples of Respondent rescuing R.L. including
24 rescuing R.L. from his allegedly abusive mother, rescuing R.L. from the crisis with his father (despite
25 Respondent's dysfunctional office), rescuing R.L. from his academic issues at school, recusing him
26 from the pending criminal charges and the multiple emails Respondent used to attempt to reach R.L.
27 when R.L. chooses not to respond to him. Dr. McPhee referred to these rescues as "a rescue dynamic
28 par excellence." (TR, Vol. I, p. 178)

29 52. With respect to the advocacy role Respondent assumed with R.L. and against his
30 mother, the record is replete with examples of Respondent vilifying R.L.'s mother to him.

1 Respondent's excusing R.L.'s behavior by alleging that Mother is blocking him from seeing Respondent
2 is only enabling R.L., passive aggressive behavior and rescuing him from a parent who Respondent has
3 diagnosed in some great detail despite only speaking with her one time by telephone. (TR, Vol. I, p.
4 179).

5 53. In addition, there were several written communications from Respondent to R.L. in
6 which Respondent again vilified R.L.'s mother to him. For example, in an email from Respondent to
7 R.L., Respondent states "Your dad's statements to the board seem most accurate, 'She is judgmental,
8 opinionated, vindictive, and abusive to anyone or anything that she opposes. I now understand more
9 than ever what you have been expressing in therapy and going through on a daily basis made even
10 worse when she is drinking.'" In the same email, Respondent notes "If you have relapsed I will totally
11 understand given your mom's most recent behaviors." (TR Vol. I, pp. 238; Ex. 3, p.178). In another
12 email to R.L., Respondent states "I did get your message today about last Tuesday's appointment and
13 understand that your mom may be blocking your (*sic*) from leaving the house on our Tuesday
14 appointment days." Another email to R.L. reads "Also need to update you on status of what your
15 mother is doing. The board clearly understands her drinking behaviors and did not accept her claims.
16 She still believes you should have gone to jail and blames me for not allowing that to happen. I think
17 she will do anything to stop our therapy goals and objectives so just hang in there and we'll discuss the
18 situation." (TR, Vol. I, p. 239; Ex. 11, p. 236, 237).

19 54. With respect to Respondent's assumption of an advocacy role involving R.L.'s criminal
20 issue Respondent did more than just simply advise R.L. to seek legal counsel. Respondent selected an
21 attorney, made the initial call and had one parent talk to the attorney and to follow a particular course of
22 action that he knew was over the strong objections of the other parent. Respondent also spoke with the
23 detective and offered himself as a diversion program. Most professionals would suggest that a person
24 who has a two-year history of very heavy marijuana should receive some consequences for that and
25 should not be rescued and relieved from those consequences by another adult who offers as an
26 alternative a multiple relationship with him. Respondent did rescue R.L. from the consequences of his
27 behavior over the strong objection of one of the parents. (TR, Vol. I, p. 212).

28 55. With respect to the appropriate standard of care, the ultimate arbiter for standard of care
29 for any profession is its licensing board. However, standard of care is also based upon the relevant
30 ethical codes, reliable commentaries on those codes by acknowledged experts, theoretical and practical

1 observations by recognized writers and researchers in the field, and the common opinion in standard or
2 average behavior of senior professionals in that field who are respected as representing the finest
3 traditions of the profession. (TR, Vol. I, p. 219).

4 56. In his defense, Respondent offered the testimony of Dr. Ralph H. Wetmore, II and Dr.
5 Bernard Engelhard. Dr. Wetmore, who is a long-time friend and colleague of Respondent, testified that
6 when he, Dr. Wetmore, was in private practice he never treated a patient at this home, that he never had
7 a patient to his home to discuss goals or to have a work session, that if he saw a patient at a place other
8 than his office (i.e., got a drink at Circle K or went to have a bagel), he would have made a note of the
9 different location in his notes and that he was not aware that Respondent had told R.L. to bring his
10 overnight clothes and that he never told a client to bring overnight clothes to a session for any reason.
11 He also testified that he never had a client ask him if the client could live with him. (TR, Vol. I, pp.
12 255-256; 258; 259).

13 57. Dr. Engelhard is also a long-time friend and colleague of Respondent. Dr. Engelhard
14 testified that in his years of private practice, while he treated numerous adolescents with drug problems,
15 he never conducted a drug screen on any of them, that he never treated or saw any clients at his home,
16 that he never suggested to a client to bring overnight clothes to a session for any reason, and that if he
17 saw a client in a location other than his office, it would be noted in the medical records and it would be
18 part of the treatment plan. (TR, Vol. II, p. 27; p. 36; p. 37).

19 58. **Dr. Alan L. Goldberg testified at the Evidentiary Hearing on behalf of Dr. Luick.**
20 **(Evidentiary Hearing Transcript (EHT), p. 15). Dr. Goldberg's doctoral degree in psychology is**
21 **from Wright State University. (EHT, p.17, lns. 5-6).**

22 59. **Dr. Goldberg stated that he did "not know a tremendous amount" (EHT p.19, ln.**
23 **6) about Dr. McPhee's doctoral program in Counseling and Student Personnel Psychology but did**
24 **acknowledge that Dr. McPhee received such a degree from the College of Education at the**
25 **University of Minnesota (EHT p. 19, lns 13-14) and that his practice of late has focused on**
26 **forensic psychology (EHT p. 20, lns. 6-7).**

27 60. While Dr. Goldberg testified that forensic and clinical psychologists are bound by
28 different guidelines (EHT p. 20, lnes.22-25), he does not believe that there is a "deficit" in having a
29 forensic psychologist offer an opinion on the practice of a clinical psychologist (EHT p. 20, ln 20).

30 61. Dr. Goldberg acknowledged that he has a small private psychology practice that

1 he operates from a home office (EHT p.30-31, lns.18, 25, 1). He further stated that his practice
2 “has always focused on rehabilitation psychology”, not clinical or counseling psychology (EHT p.
3 33, lns. 6-7).

4 62. Dr. Goldberg testified that: he has never invited a patient to the private living
5 quarters of his home (EHT p. 31, ln. 11); he never invited a client to dinner for a working session
6 (EHT p. 33, ln. 17); he believes having a session with a client in a restaurant is not the best place to
7 meet (EHT p. 42, lns. 7-8); he never told a client to bring their overnight clothes to a session for
8 any reason (EHT p. 36, ln. 12); he never signed a communication to a client with the phrase “love
9 ya” (EHT p. 36, ln. 21); he did not see in the medical records where Dr. Luick indicated that client
10 RL was at Dr. Luick’s home (EHT p. 34, lns. 10-11).

11 63. Dr. Goldberg further testified that he assumed Dr. Luick’s Ph.D. degree to be in
12 clinical psychology; he was unaware that Dr. Luick’s doctoral degree is in Special Education
13 (EHT p. 37, lns. 20-24).

14 64. Dr. Goldberg’s *curriculum vitae* states that he has a “private practice of law,
15 Tucson, AZ, 1998-Present” (Plaintiff’s Ex. 4) however, he told the Court that he has never
16 “formally practiced law” (EHT p. 38, lns. 18-19).

17 65. Also at the Evidentiary Hearing, Dr. Bernard Engelhard testified for Dr. Luick
18 (EHT p.56, ln. 16).⁸ Dr. Engelhard’s doctoral degree is in Rehabilitation Counseling (EHT p. 71,
19 ln. 25), from the Department of Rehabilitation and not from the psychology department (EHT p.
20 72, lns. 3 -10) or the counseling department (EHT p. 73, lns. 8-10).

21 66. Although evidence presented at the Evidentiary Hearing indicated that Dr.
22 Engelhard’s doctoral degree is in Rehabilitation Counseling, he testified at the administrative
23 hearing that he had a “Ph.D. in psychology” (EHT p. 74, lns. 10-13).

24 67. Further, Dr. Engelhard testified that: he never invited a client to his home (EHT p.
25 69, ln. 21); he never conducted a urinalysis on a client in his private practice (EHT p. 70, ln. 17);
26 he never told a client to bring their overnight clothes to a session (EHT p. 71, ln. 1); and he never
27 closed written communication to a client by stating “love ya” (EHT p. 71, ln. 4).

28 68. Dr. Luick also testified at the Evidentiary Hearing (EHT p. 79, ln. 18) and
29 acknowledged that he obtained his Ph.D. from the Department of Special Education (EHT p. 85,
30

⁸ Dr. Engelhard also testified at the administrative hearing on behalf of Dr. Luick.

1 Ins. 3-5), and not from the counseling department (EHT p. 86, lns. 10-12) and not from the
2 psychology department (EHT p. 86, lns. 23).

3 69. Dr. Luick's doctoral program in Special Education was not accredited by the
4 American Psychological Association (EHT p. 101, lns. 20-23).

5 70. Despite a fully-functioning home office, Dr. Luick again admitted that he invited
6 RL to his home and then took him to dinner because the electricity was out in his regular office
7 (EHT p.88, lns. 9-11).

8 71. As set forth above, Dr. McPhee testified on behalf of the State at the
9 administrative hearing but was unable to attend the Evidentiary Hearing because he was residing
10 in Thailand (EHT p. 97, lns. 10-16).

11 72. In preparation of the Evidentiary Hearing, Dr. McPhee prepared an Affidavit that
12 sets forth his education, training, and professional experience (Ex. H).

13 73. Dr. Frederick Wechsler, a current Board member, testified on behalf of the State
14 at the Evidentiary Hearing (EHT p. 123). Dr. Wechsler has two doctoral degrees, one from the
15 University of Georgia in Counseling and Student Personnel services and a Doctor of Psychology
16 degree from Wright State University (EHT p. 126, lns. 4-7). He is also a specialist (Clinical
17 Psychology) with the American Board of Professional Psychology (EHT p. 126, lns.18-22).

18 74. Dr. Wechsler is the Dean of the School of Professional Psychology at Argosy
19 University (Phoenix) (EHT p. 124, lns. 4-5) and as Dean he is administratively responsible for
20 oversight of the clinical psychology program and to ensure that the program continues to meet all
21 accreditation standards (EHT p. 124, lns. 9-13).

22 75. At the evidentiary hearing Dr. Wechsler was asked to opine whether Dr. McPhee's
23 education, experience and training qualified him to render an opinion with respect to Dr. Luick's
24 treatment of and relationship with RL (EHT p. 130, lns. 6-9).

25 76. Dr. Wechsler testified that he is familiar with Dr. McPhee's reputation in the
26 community and that "he [Dr. McPhee] is well –respected in the professional community" (EHT p.
27 129, lns. 3 -5).

28 77. In reviewing Dr. McPhee's Affidavit, Dr. Wechsler noted Dr. McPhee's education,
29 including two doctoral degrees, one of his doctoral programs was accredited by the American
30 Psychological Association (EHT p. 130, lns. 14-15) and that is not unusual that Dr. McPhee's

1 Student Personnel and Counseling program was housed in the College of Education and that
2 there are many educational psychology programs also housed in the College of Education (EHT p.
3 131, lns. 19-22).

4 78. With respect to Dr. McPhee's doctoral coursework, Dr. Wechsler opined that the
5 Dr. McPhee's coursework in Educational Counseling and Student Personnel Psychology closely
6 aligned with the coursework completed by students in Argosy's clinical psychology program
7 (EHT p. 132, lns. 5-17).

8 79. Dr. Wechsler further opined that Dr. McPhee's training and professional
9 experience also qualify him to render an opinion of Dr. Luick's treatment of and relationship with
10 RL. Specifically, Dr. McPhee's internship met all statutory criteria (EHT p. 133, lns. 1-6) and his
11 varied professional experiences enable him to opine on Dr. Luick's clinical practice. Dr.
12 McPhee's experience includes clinical director at various psychiatric hospitals and clinics and his
13 private practice, which included for a time, forensic psychology (EHT p. 133, lns. 16-25; p. 134,
14 lns 1- 20). Consistent with Dr. McPhee's testimony at the administrative hearing and contrary to
15 Dr. Engelhard's testimony, Dr. Wechsler opined that Dr. McPhee's professional experience
16 indicates that he has worked with substance abuse clients in the past at the mental health facilities
17 as well as in his private and forensic practices (EHT p. 134, lns. 10-20).

18 80. Overall, Dr. Wechsler concluded that "Dr. McPhee is eminently qualified to
19 testify" on the issues relating to Dr. Luick and his treatment of and relationship with RL (EHT p.
20 130, lns. 6-11). He further stated that Dr. McPhee is knowledgeable about ethics and "he certainly
21 had the requisite professional experience to render an opinion on whether another professional
22 psychologist was in violation of an ethical standard or code." (EHT p. 138, lns. 9-17).

23 81. With respect to Dr. Luick's treatment of and relationship with RL, Dr. Wechsler
24 testified that under the APA Ethical Code, a multiple relationship that compromises the
25 objectivity, competency or effectiveness of a psychologist or creates a risk of exploitation or harm
26 would be unethical or problematic (EHT p. 136, lns. 14-18).

27 82. He further testified that "if the psychologist oversteps their boundaries in terms of
28 providing treatment and renders special privileges to a patient, treats them as a friend, for
29 example, and the relationship becomes one in which the client expects friendship as opposed to a
30 professional relationship, you risk a form of exploitation. That could also impair the objectivity of

1 the psychologist if they have strong feelings that go beyond what you would have as a professional
2 in a therapeutic relationship with a client.” (EHT p. 137, lns. 1-9).

3 83. Dr. Wechsler continued and opined that a psychologist who invites a patient to his
4 private home or to dinner or signed an email to that client that said “love ya” would be boundary
5 crossing (EHT p. 137, lns. 10-21).

6 CONCLUSIONS OF LAW

7 1. This matter lies within the Board’s jurisdiction under A.R.S. § 32-2061 *et seq.*

8 2. The Board bears the burden of proof and must establish cause to penalize Respondent’s
9 license by a preponderance of the evidence. See A.R.S. § 41-1092.07(G)(2); A.A.C. R2-19-119(A) and
10 (B)(1); seals *Vazanno v. Superior Court*, 74 Ariz. 369, 372, 249 P.2d 837 (1952).

11 3. A preponderance of the evidence is such proof as convinces the trier of fact that the
12 contention is more probably true than not.” MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE §
13 5 (1960). A preponderance of the evidence is “evidence which is of greater weight or more convincing
14 than evidence which is offered in opposition to it; that is, evidence which as a whole show that the fact
15 sought to be proved is more probable than not.” BLACK’S LAW DICTIONARY 1120 (8th ed. 2004).

16 4. Based upon the foregoing Findings of Fact, the Board finds that Respondent committed
17 unprofessional conduct by violating the following statutory provisions and related Ethical Principles and
18 Code of Conduct. Specifically, Respondent violated A.R.S. §32-2061(15)(e), gross negligence in the
19 practice of psychology; A.R.S. §32-2061(15)(o), engaging in activities as a psychologist that are
20 unprofessional by current standards of practice; and A.R.S. §32-2061(15)(dd), violating the Ethical
21 Principles of Psychologists and Code of Conduct of the American Psychological Association, as
22 adopted by the Board in A.A.C. R4-26-301, and as set forth in Ethical Standard 3.05 relating to Multiple
23 Relationships.⁹

24 ORDER

25 Based upon the foregoing Findings of Fact and Conclusions of Law, IT IS HEREBY
26 ORDERED THAT Anthony H. Luick, Ph.D., holder of license 748, is issued a Decree of Censure.

27 RIGHT TO PETITION FOR REHEARING OR REVIEW

28 Respondent is hereby notified that he has the right to petition for a rehearing or review.
29 Pursuant to A.R.S. §41-1092.09, as amended, the petition for rehearing or review must be filed with the

30 ⁹ Effective July 24, 2014, unprofessional conduct is defined under A.R.S. §32-2061(15) (rather than §32-2061(13), as previously)

1 Board's Executive Director within thirty (30) days after service of this Order. Pursuant to A.A.C. R4-
2 26-308, the petition must set forth legally sufficient reasons for granting a rehearing. Service of this
3 Order is effective five (5) days after date of mailing. If a motion for rehearing is not filed, the Board's
4 Order becomes effective thirty-five (35) days after it is mailed to the Respondent.

5 Respondent is further notified that the filing of a motion for rehearing is required to preserve
6 any rights of appeal to the Superior Court.

7
8 Dated this 19th day of October, 2015

9 Arizona Board of Psychologist Examiners

10 Cindy Olvey, Psy.D.
11 Cindy Olvey, Psy.D., Executive Director

12
13 ORIGINAL of the foregoing filed this
14 19th day of October, 2015, with:

15 The Arizona Board of Psychologist Examiners
16 1400 W. Washington, Ste. 235
17 Phoenix, AZ 85007

18 COPY of the foregoing mailed
19 by U.S. Mail, and certified mail this
20 19th day of October, 2015, to:

21 Anthony Luick Certified Mail # 7009 2250 0002 7170 6707
22 Address of Record

23 Thomas Slutes, Esq. Certified Mail # 7009 2250 0001 1148 8732
24 Slutes Sakrison & Rogers PC
25 4801 E Broadway Blvd., Ste. 301
26 Tucson, AZ 85711-0001

27 Jeanne Galvin, Esq. Certified Mail # 7009 2250 0002 7170 6714
28 Assistant Attorney General
29 1275 West Washington
30 Phoenix, Arizona 85007

Copies of the foregoing sent by interagency mail
This 19th day of October, 2015. to:

Christopher Munns, Esq.
Solicitor General's Office
15 South 15th Ave.
Phoenix, Arizona 85007