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BY: _____

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BEFORE THE KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD

In the Matter of)
)
DAVID J. BROWN,)
LAC #100,)
Respondent)

Case No. 17-AC-101

CONSENT AGREEMENT AND ORDER

NOW, on this 7 day of February, 2018, the above-captioned matter comes before the Kansas Behavioral Sciences Regulatory Board [Board], by and through Assistant Attorney General Marty M. Snyder, by agreement with David Brown [Respondent / Licensee], for the purpose of resolving the above-captioned case.

Respondent hereby acknowledges the following:

1. David Brown, at all times relevant, has been a Licensed Addictions Counselor within the meaning of the Addictions Counselor Licensure Act, K.S.A. 65-6601, *et seq.*, and amendments thereto.

2. On February 22, 2017, the Board received a report of information concerning Respondent's conduct, disclosing that Respondent may have violated certain statutes and regulations governing the practice of addictions counseling in Kansas.

3. The Board conducted an investigation concerning the reported violations. During the investigation, Respondent provided requested information to the investigator.

4. As a result of the investigation, the Board finds that the following facts have been established by a preponderance of persuasive evidence:

a. Complainant Mark McGonigle, a LSCSW, referred a client to Respondent, who is employed with Avenues to Recovery in Olathe, for counseling for ongoing substance abuse problems.

b. The client, DL, is a wealthy Kansas City businessman, who has difficulty maintaining financial boundaries with others.

c. Complainant became concerned when he learned that Respondent was charging DL disproportionately large retainer fees, that he accompanied DL on a private jet to tropical islands where the client conducts business and that he posted pictures of himself on his Facebook page stating he was with a client. Photographs posted revealed the client's well-known business hat and included pictures of DL's private jet and boat.

d. After the complaint was filed, the investigator learned that Respondent was contacting Complainant and the client in an effort to persuade them to withdraw the complaint and the authorization for release of information.

e. Respondent denies taking financial advantage of his client and admits the confidentiality violations were "ill-conceived" and "naïve, but not malicious." He claims to be DL's "case manager and a sober companion / coach," which if true would be inconsistent with his role as Licensed Addiction Counselor.

f. Respondent is not a Certified Intervention Professional [CIP]. His certificate expired in March of 2016, and Kansas is not a reciprocal IC&RC state.

Conclusions of Law

The Complaint Review Committee of the Board finds that probable cause exists to believe Respondent has violated the following statutes and regulations:

- A. K.S.A. 65-6615. Grounds for discipline (a)(9).**
- B. K.A.R. 102-7-11 – Unprofessional Conduct.**

Each of the following acts shall be considered unprofessional conduct for a licensed addiction counselor:

(i) offering to perform or performing services clearly inconsistent or incommensurate with one's training, education or experience or with accepted professional standards;

(r) failing to obtain written, informed consent from each client before performing any of the following actions: (3) releasing information concerning a client to a third person;

(v) engaging in a harmful dual relationship or exercising undue influence;

(t) engaging in professional activities, including billing practices and advertising, involving dishonesty, fraud, deceit or misrepresentation.

However, Respondent and the Board mutually desire to enter a Consent Agreement and Order in lieu of adjudicative proceedings to resolve the above violations.

WHEREFORE, Respondent waives all rights to an adjudication of facts and law which could be determined pursuant to a hearing conducted in accordance with the Kansas Administrative Procedure Act [KAPA] in relation to Case No. 17-AC-101.

WHEREFORE, Respondent waives the right to file a motion for reconsideration and all rights of appeal pursuant to the Kansas Judicial Review Act [KJRA] in relation to Case No. 17-AC-101.

WHEREFORE, the Board and Respondent agree to the following terms and conditions of probation until he has completed two years of supervised practice:

(a) Licensee shall obtain clinical level supervision by a Board-approved supervisor not in a dual relationship with Licensee. They shall meet face-to-face a minimum of one hour per week. Licensee shall provide copies of this CAO to his supervisor. The focus of the supervision shall be on professional boundaries, avoiding dual relationships, undue influence and responsible social media confidentiality. The supervisor shall provide quarterly written reports to the Board's Investigator but initiate immediate contact if any problems are identified.

(b) Licensee shall self-report his lapsed CIP status to the Pennsylvania Certification Board while claiming to have that certification and furnish proof of the report's submission to the Board's Investigator.

(c) Licensee shall obtain six extra CEU hours in Ethics, focusing on confidentiality, boundaries, dual relationships and undue influence, in addition to the biennial requirement to be taken in-person and proof of completion furnished to the Board's Investigator within 180 days of the effective date of this Consent Agreement.

(d) Licensee shall write a ten-page paper, APA format, on "social media and confidentiality" and provide a copy to the Board's Investigator within 180 days of the effective date of this Consent Agreement. The paper will be reviewed by a member of the Board and Complaint Review Committee.

(e) Respondent shall be responsible for any costs and expenses incurred in satisfying the terms of this Consent Agreement and Order.

(f) Evidence of Respondent's failure to comply with any of these conditions may result in summary suspension of Respondent's Kansas Licensed Addictions Counselor license until such time as he can demonstrate compliance with all terms and conditions of this Consent Agreement and Order to the satisfaction of the Board.

(g) Respondent acknowledges an affirmative duty to notify the Board's Investigator within five (5) days of any changes in personal or professional status which would inhibit compliance with any condition of this Consent Agreement and Order. In such event, a designee of the Board is authorized to modify or amend this Consent Agreement and Order in writing.

(h) Respondent understands that a notification of this Consent Agreement and Order shall be provided to any other state licensing board if Respondent is also licensed, registered or certified in another state and as otherwise required by law.


(i) This Consent Agreement and Order constitutes the entire agreement between Respondent and the Board and may be modified or amended only by written agreement signed by Respondent and the Board or a designee of the Board.

WHEREFORE, Respondent consents to the submission of this Consent Agreement and Order to the Board's Complaint Review Committee and understands that, upon approval by the Complaint Review Committee, this Consent Agreement and Order will become a Final Order of the Board. The Board has authorized the Complaint Review Committee to determine approval of this Consent Agreement and Order.


WHEREFORE, the Board agrees that, so long as Respondent complies with the above conditions, the Board will not initiate further disciplinary action against Licensee in relation to violations of K.S.A. 65-6615 and K.A.R. 102-7-11 as a result of this proceeding.

WHEREFORE, the foregoing provisions are consented to, are hereby made the final Order of the Kansas Behavioral Sciences Regulatory Board and become effective on the date indicated in the Certificate of Service below.

IT IS SO ORDERED this 31st day of January, 2018.


Terry Pfannenstiel, Ph.D., LCP, LCMFT
Chair, Complaint Review Committee

APPROVED AND CONSENTED TO:



David J. Brown, LAC
Licensee / Respondent

1/15/18

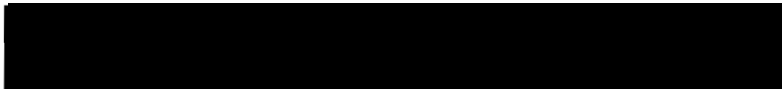
Date

CERTIFICATE OF SERVICE

This is to certify that on this 1 day of February, 2018, a true and correct copy of the above Consent Agreement and Order was deposited in the U.S. mail, first class postage prepaid, addressed to:

David J. Brown

David J. Brown



and emailed to: davidb@avenuestorecovery.net

and a copy sent by building mail to:

Marty M. Snyder
Assistant Attorney General



For the Board