

COLORADO STATE GRIEVANCE BOARD]

STATE OF COLORADO

Case No.2005-003097 and 2006-004283

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF DISCIPLINARY PROCEEDINGS REGARDING THE LISTING TO PRACTICE PSYCHOTHERAPY IN THE STATE OF COLORADO OF MARK HOFFMAN, EdD, Database NO.3500.

Respondent.

IT IS HEREBY STIPULATED by and between the Colorado State Grievance Board ("Board") and Mark Hoffman, EdD. ("Respondent") as follows:

1. The Board has jurisdiction over the Respondent and the subject matter of this Stipulation and Final Agency Order ("Order").
2. Respondent was listed in the database of the Colorado State Grievance Board to practice as an unlicensed psychotherapist in the State of Colorado at all times relevant herein.
3. This Order is a full and final resolution of cases 2005-003097 and 2006-004283 and information recently received regarding misleading advertising. This Order does not resolve any other cases, complaints, or matters, known or unknown to the Board or Respondent, as of the effective date of this Order.
4. Respondent admits the following:
 - a. While serving as a court appointed custody evaluator retained for the express purpose of performing psychological evaluations on all parties in a child custody action, Respondent acted outside the scope of the Court Order directing him to perform custody evaluation functions and provided substandard psychotherapy ;
 - b. Respondent engaged in personal friendships, activities, and providing psychotherapy with clients, which was outside the scope of his court ordered custody evaluator role with clients. In these actions Respondent breached professional boundaries while proving substandard psychotherapy;
 - c. Respondent shared confidential information with a client. The information related to three other clients; and

d. Respondent used misleading advertising that involved use of a protected title by advertising in the Colorado Lawyer as a "forensic psychologist".

5. By virtue of the facts admitted in paragraph 4 above, Respondent admits and the Board finds that Respondent violated §§ 12-43-222(1)(b), 12-43-222(1)(c), 12-43-222(1)(g), 12-43-222(1)(i), 12-43-216 and 12-43-218, C.R.S.

6. Based on Respondent's actions and the admissions in paragraphs 4 and 5 above, the Board determines that the following disciplinary action is necessary to protect the public health, safety and welfare and hereby orders that Respondent is subject to discipline as follows.

SUSPENSION

7. Respondent's listing to practice psychotherapy is hereby suspended for a period of at least 6 months, beginning upon the effective date of this Order. During the period of suspension, Respondent shall not engage in the practice of psychotherapy, including conducting psychological evaluations, in the State of Colorado and will not hold himself out as a psychologist.

PRACTICE EVALUATION

8. If Respondent seeks reinstatement as a listed psychologist in the State of Colorado upon completion of the period of suspension, Respondent shall submit to a practice evaluation at his own expense, conducted by a Board-approved practice evaluator.

9. Respondent shall submit, in writing, three proposed practice evaluators for the Board's approval. Respondent shall include a Board-approved practice evaluator application from each potential practice evaluator, with attached curriculum vita or resume. The proposed practice evaluators shall meet the following criteria:

- a. The practice evaluator shall be a licensed, certified, or listed, currently practicing mental health provider in the State of Colorado; and
- b. It is recommended that the practice evaluator have a minimum of five years experience and not have been subject to professional discipline; and
- c. The practice evaluator shall have no current or past financial or personal interest in Respondent or Respondent's practice. Former employees and business associates fall under this provision.

10. The practice evaluator, if approved, may also be Respondent's practice monitor if and when the Board authorizes reinstatement of Respondent's listing in the Grievance Board Database, thereby making it legal for him to practice psychotherapy as an unlicensed psychotherapist in the State of Colorado. The practice evaluation shall examine all aspects of Respondent's practice or proposed practice and his qualifications and ability to practice in accordance with generally accepted standards of practice and with skill and safety for clients, and determine whether he has the necessary qualifications, current ability, and competence to

practice. The findings of the practice evaluation shall be submitted to the Board for consideration with Respondent's application for reinstatement. Respondent shall not perform any act requiring a listing to practice, including but not limited to, conducting psychological evaluations, until such time as the Board has accepted the practice evaluation and authorized the reinstatement of Respondent's listing to practice unlicensed psychotherapy in the State of Colorado.

11. If the Board determines from the practice evaluation report that Respondent cannot practice any part of his practice with skill and safety for clients in accordance with generally accepted standards of practice and/or does not have the appropriate qualifications, ability or competence for practice, Respondent shall not be allowed to resume the practice of psychotherapy or any portion of the practice of psychotherapy that the Board determines, based on the practice evaluation report, he is not qualified, competent, and/or safe to conduct. Based on the Board's findings and the practice evaluation report, the Board will determine necessary actions that Respondent must take and conditions Respondent must meet so that Respondent can practice with skill and safety for clients in accordance with generally accepted standards of practice in any areas the Board finds Respondent is not qualified, competent, and/or safe to practice. Once Respondent satisfies the Board that he is qualified, competent, and/or safe to fully practice, Respondent may resume full practice.

MENTAL STATUS EVALUATION

12. Respondent shall undergo a mental status evaluation ("evaluation") by a Board-approved mental health provider ("therapy evaluator"). The evaluation shall be conducted so as to enable the therapy evaluator to make findings and recommendations as to whether Respondent has any conditions that may endanger the health or safety of persons under his care, whether Respondent can practice with skill and safety for his clients, and whether Respondent should undergo psychotherapy as a term of probation. As part of the evaluation, the therapy evaluator shall be provided with pertinent information regarding Respondent. Respondent agrees to provide the therapy evaluator with any medical or psychological information requested by the therapy evaluator as part of the evaluation, including information and reports from therapists. The therapy evaluator shall provide a written report to the Board setting forth the nature of the evaluation conducted, with findings and recommendations as to whether Respondent has any conditions that may endanger the health or safety of persons under his care, whether Respondent can practice with skill and safety for his clients, and a recommendation as to whether Respondent needs psychotherapy. If approved by the Board, Respondent may provide a complete report from his current treating therapist detailing the treatment provided and other findings and recommendations of the therapist instead of an evaluation. Respondent shall not perform any act requiring a listing to practice psychotherapy, including conducting psychological evaluations, until such time as the Board has accepted the evaluation and authorized the reinstatement of Respondent's listing to practice psychotherapy, including conducting psychological evaluations, in the State of Colorado.

13. The Board will review the evaluation and determine whether Respondent shall undergo psychotherapy as a term of probation. If the Board orders psychotherapy as a term of probation, Respondent shall undergo psychotherapy with a mental health provider approved by the Board ("therapist") as a term of probation, as described below.

14. If, at any time, the therapist is of the opinion that Respondent is practicing psychotherapy (including conducting psychological evaluations) in a manner that does not meet the generally accepted standards of practice or has a condition that renders him unable to treat clients with reasonable skill and safety or that may endanger the health or safety of persons under his care, the therapist shall report such opinion and the reasons for that opinion to the Board. The therapist shall make that report, in writing, within 48 hours of forming his/her opinion. The therapist shall send a copy of such report to the practice monitor and Respondent when s/he sends the report to the Board. Upon submission of such a report, Respondent shall immediately cease the practice of psychotherapy (including conducting psychological evaluations).

15. Either Respondent or his therapist may terminate the therapeutic relationship upon written notice to the other and the Board not less than 60 days before the date of termination. The notice shall state the reason for the termination. If Respondent does not have another Board-approved therapist prior to the termination date, Respondent shall cease the practice of psychotherapy (including conducting psychological evaluations) until he has another Board-approved therapist in place. The subsequent therapist shall conduct therapy with Respondent and report to the Board in accordance with this Order.

16. If psychotherapy is required as a term of probation, Respondent cannot practice psychotherapy during the period of probation, and must cease practice (including conducting psychological evaluations), if he is not undergoing psychotherapy in accordance with this Order, unless otherwise provided by the Board based on the recommendations of the therapist.

PROBATION

17. If and when Respondent is reinstated as a listed psychotherapist in the State of Colorado, Respondent shall be on probation. Respondent's listing to practice psychotherapy (including conducting psychological evaluations) in the State of Colorado will not be reinstated until a Board-approved practice monitor and therapist are in place.

18. Respondent's listing to practice psychotherapy (including conducting psychological evaluations) in the State of Colorado will be on probation for 3 years commencing from the date that Respondent's listing to practice psychotherapy is reinstated. During the probationary period, Respondent shall be bound by the terms and restrictions set forth below. If at any time Respondent is not in compliance with the terms and restrictions of probation, including have a practice monitor and therapist in place, Respondent shall cease the practice of psychotherapy, including conducting psychological evaluations.

19. The period of probation is tolled during any time that Respondent is not practicing in the State of Colorado, and such period of probation shall resume at such time as Respondent resumes practicing in the State of Colorado in accordance with this Order.

20. Respondent shall report to the Board if he discontinues the practice of psychotherapy, and Respondent shall notify the Board upon resuming the practice of psychotherapy.

21. Credit toward the period of probation will be given only for the period of time during which Respondent is practicing as a listed psychotherapist in the State of Colorado, being monitored by a practice monitor, is undergoing therapy if necessary, and is in full compliance with all terms of this Order.

22. If, at the end of the probationary period, Respondent has adhered to all terms and conditions of this Order, Respondent may request termination of probation. Request for termination of probation must be made in writing to the Board, and Respondent is responsible for establishing to the satisfaction of the Board, that he has satisfied all terms and conditions of probation.

PRACTICE MONITOR

23. Prior to reinstatement of Respondent's listing to practice as a psychotherapist in the State of Colorado, Respondent must have a Board-approved practice monitor in place. During the term of probation, Respondent's practice shall be monitored by a practice monitor. If the Board has not already approved Respondent's practice monitor, pursuant to paragraph 10, Respondent must follow the same steps as outlined in paragraph 9 in order to secure a practice monitor.

24. After the Board's written approval of the practice monitor, Respondent and the practice monitor shall enter into a written contract for monitoring. Respondent shall not perform any act requiring a listing to practice psychotherapy (including conducting psychological evaluations) until such time as the Board has approved Respondent's practice monitor and Respondent and practice monitor have entered into a written contract for monitoring.

25. The practice monitor shall provide a copy of the written contract to the Board as a part of his/her first report to the Board (if not already provided with the practice evaluation report). The contract must contain a provision stating that the practice monitor has received a copy of this Order, the complaint and responsive documents, all investigative reports, and all practice evaluation reports; and all mental health status reports if applicable; read these documents; and understands and agrees to perform the duties and responsibilities s/he is undertaking as Respondent's practice monitor. The practice monitor shall ensure that a written notification is provided to each of Respondent's clients, informing the clients of the name, address, and telephone number of the practice monitor. This written notification may be provided in a mandatory disclosure statement.

26. The practice monitoring shall consist of individual, in-person (face-to-face) sessions that occur once a week for at least one hour, or such longer time as the practice monitor deems necessary OR that occur for at least one hour, or such longer time as the practice monitor deems necessary, for every 20 hours of client contact, but at least once a month. During the practice monitoring sessions, Respondent and his practice monitor must review and discuss each of Respondent's active cases at least once every month in order to allow the practice monitor to be able to determine whether Respondent is practicing psychotherapy (including conducting any psychological evaluations) in accordance with generally accepted standards of practice and with skill and safety for his clients.

27. The practice monitor shall submit a written report to the Board on the fifth day of the month following the first full month of practice monitoring. All subsequent reports shall be submitted on the fifth day of each month for the first 12 reports. After submission of the first 12 reports, unless otherwise ordered by the Board, the practice monitor shall submit his/her reports by the fifth day of every third month (i.e. on a quarterly basis) until the practice monitoring are completed.

28. If at any time the Board has questions or concerns regarding the monitoring, the practice monitor agrees to attend any Board meeting necessary to address the Board's concerns. The Board will give the practice monitor 30 days notice prior to requiring the practice monitor's attendance at the Board meeting.

29. If at any time the practice monitor believes Respondent is not in compliance with this Order, is unable to practice with skill and safety to his patients, and/or has committed a violation of the practice act or rules and regulations, the practice monitor shall immediately notify the Board, in writing, and include the basis for the determination. A copy will be sent to Respondent. Upon submission of such a report, Respondent shall immediately cease the practice of psychotherapy (including conducting psychological evaluations).

30. Respondent shall make every effort to ensure that all reports by the practice monitor are complete and timely submitted to the Board. If, in the Board's judgment, the practice monitor fails to perform the function specified by this Order, the Board may require that a new practice monitor assume the responsibilities herein. If for any reason the practice monitor ceases to perform the functions specified in this Order, Respondent shall submit, in writing, a new proposed practice monitor to the Board within 30 days.

31. Either Respondent or the practice monitor may terminate the monitoring relationship upon written notice to the other and the Board not less than 60 days before the date of termination. The notice shall state the reason for the termination. Respondent shall immediately initiate efforts to obtain another Board-approved practice monitor, who shall conduct his/her monitoring and report to the Board in accordance with this Order. If Respondent does not have another Board-approved practice monitor in place before the termination date, Respondent shall cease the practice of psychotherapy until he has another Board-approved practice monitor in place.

THERAPY

32. Applicant shall undergo psychotherapy with a mental health provider approved by the Board ("therapist") as a term of probation, if so determined by the Board after the mental status evaluation. The therapist shall conduct therapy and report to the Board in writing as follows:

- a. The psychotherapy must consist of individual or group therapy sessions, or both, that occur in a frequency to be determined by the therapist, but in no event less frequently than once a week, unless otherwise approved by the Board based on recommendations of the therapist; and
- b. The therapist shall report to the Board in writing both the progress of the psychotherapy and whether Applicant is able to practice with reasonable

skill and safety for his clients, and must send a copy of each report to the practice monitor and Applicant. The therapist shall submit his/her first report by the fifth day of the month following the first month of the psychotherapy. The therapist shall submit subsequent reports by the fifth day of every month thereafter for the first 12 months. After submission of the first 12 reports, unless otherwise ordered by the Board, the therapist shall submit reports by the fifth day of every third month (i.e., on a quarterly basis) until the therapy is completed; and

- c. In the first report, the therapist shall state that s/he has received and read a copy of this Order, the Board's file, and the therapy evaluator's report, and must state that s/he understands and agrees to the duties and responsibilities s/he is undertaking as Applicant's therapist.

33. If, at any time, the therapist is of the opinion that Applicant is practicing psychotherapy in a manner that does not meet the generally accepted standards of practice or has a condition that renders him unable to treat clients with reasonable skill and safety or that may endanger the health or safety of persons under his care, the therapist shall report such opinion and the reasons for that opinion to the Board. The therapist shall make that report, in writing, within 48 hours of forming his/her opinion. The therapist shall send a copy of such report to the practice monitor and Applicant when s/he sends the report to the Board. Upon submission of such a report, Applicant shall immediately cease the practice of psychotherapy.

34. Either Applicant or his therapist may terminate the therapeutic relationship upon written notice to the other and the Board not less than 60 days before the date of termination. The notice shall state the reason for the termination. If Applicant does not have another Board-approved therapist prior to the termination date, Applicant shall cease the practice of psychotherapy until he has another Board-approved therapist in place. The subsequent therapist shall conduct therapy with Applicant and report to the Board in accordance with this Order.

35. If psychotherapy is required as a term of probation, Applicant cannot practice psychotherapy during the period of probation, and must cease practice, if he is not undergoing psychotherapy in accordance with this Order, unless otherwise provided by the Board based on the recommendations of the therapist.

CONTINUING EDUCATION

36. During the period of probation, Respondent must successfully complete at least 20 hours each year of Board-approved professional continuing education courses *each year* in the areas of boundary issues and legal / ethical issues related to the practice of psychotherapy. Respondent shall obtain Board approval of the courses prior to enrolling in each course. Upon completion of a course, Respondent shall ensure that a certificate of completion is mailed to the Board.

TERMS AND CONDITIONS

37. Respondent will not advertise as a psychologist or a licensed psychotherapist in any form of media or publications.

38. Respondent will strictly observe the prohibitions set forth in the Mental Health Practice Act, §12-43-101, *et. seq.*, C.R.S., and will ensure that he does not engage in any activities that are prohibited and that he practices in accordance with generally accepted standards of practice.

39. Respondent shall not supervise or consult with other mental health providers for the purpose of those persons providing psychotherapy (including conducting psychological evaluations), unless such supervision or consultation is monitored in accordance with this Order.

40. All expenses incurred or associated with the practice evaluation, therapy evaluation, therapy, practice monitoring, education, or any other expenses incurred in fulfilling the terms of this Order, shall be the sole responsibility of Respondent and not the Board.

41. During the pendency of this Order, Respondent agrees that he will provide permission to and allow his practice evaluator, practice monitor, therapy evaluator, and/or therapist to provide records and information obtained in the normal course of practice evaluation, practice monitoring, therapy evaluation, and/or treatment to the Board if the practice evaluator, practice monitor, therapy evaluator, and/or therapist determines that Respondent is not practicing psychotherapy in accordance with generally accepted standards of practice and/or has a condition that renders him unable to treat clients with skill and safety or that may endanger the health or safety of persons under his care. As part of this Order, Respondent expressly waives his right to maintain confidentiality of records or information provided to the practice evaluator, practice monitor, therapy evaluator, and/or therapist in the normal course of practice evaluation, practice monitoring, therapy evaluation, and/or treatment if the practice evaluator, practice monitor, therapy evaluator, and/or therapist determines that he is not practicing psychotherapy in accordance with generally accepted standards of practice and/or has a condition that renders him unable to treat clients with skill and safety or that may endanger the health or safety of persons under his care.

42. In the event Respondent relocates at any time during the probationary period, Respondent shall notify the Board of the change of address within 30 days of the effective date of such change.

43. Respondent is fully aware of and understands the right to receive a formal notice of hearing and charges and to have a formal disciplinary hearing, pursuant to §12-43-224, C.R.S., and hereby waives those rights. Further, Respondent also acknowledges that this waiver constitutes a waiver of all rights to appeal in this matter.

44. This Order is entered into by Respondent voluntarily and without coercion, after an opportunity to consult with counsel and with full understanding of the legal consequences of this Order and the right to a formal hearing on all matters herein.

45. The Order entered pursuant to this Stipulation and Final Agency Order shall constitute a Board Order for purposes of §12-43-222, C.R.S., and shall have the same force and effect as an order entered after a formal disciplinary hearing pursuant to §12-43-224, C.R.S.

46. Respondent acknowledges and agrees that any violation of this Order shall constitute a violation of a lawful Board Order and be grounds for further proceedings pursuant to the Mental Health Practice Act and, if proven, may constitute a basis for further disciplinary action. The pendency of any disciplinary action shall not affect the obligation of Respondent to comply with the terms of this Order, and this Order shall remain operative and in full force and effect.

47. Respondent shall obey all state and federal laws while this Order is in effect.

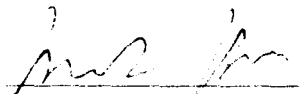
48. This Order constitutes the entire agreement between Respondent and the Board. There are no other promises expressed or implied. In the event that any provision of this Order is deemed unenforceable by a court of competent jurisdiction, such provision shall be severed, and the remainder of this Order shall be given full force and effect.

49. This Order shall become effective when accepted and signed on behalf of the Board.

50. This Order shall be admissible as evidence at any hearing held before the Board.

51. This Order shall be a public record in the custody of the Board.

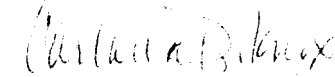
RESPONDENT



Mark Hoffmann
Unlicensed Psychotherapist
Database No. 3500

Dated: 1/30/08

COLORADO STATE GRIEVANCE BOARD

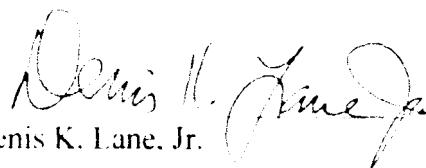

PROGRAM DIRECTOR
Carlotta Knox
Program Director

Effective Date: This 10th day of

November, 2008.

APPROVED AS TO FORM:


FOR THE RESPONDENT


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Attorney for Respondent

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FOR THE ATTORNEY GENERAL


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