BEFORE THE ARKANSAS PSYCHOLOGY BOARD

IN THE MATTER OF
MARTIN T. FAITAK, Ph.D. **RESPONDENT**
License # 88-12P

Case No: C-14-08

CONSENT AGREEMENT
WITH
LETTERS REPRIMAND

A complaint alleging that **Martin T. Faitak, Ph.D.,** (hereinafter referred to as "the Respondent") violated Ark. Code Ann. § **17-97-310** *et seq.*, (hereinafter referred to as "the Act") has been received by the Arkansas Psychology Board (hereinafter referred to as "the Board"). In lieu of a formal hearing on these issues, and in the interest of prompt and speedy settlement of the above-captioned matter, consistent with the public interest, statutory requirements, and the responsibilities of the Board, the undersigned parties enter into this Consent Agreement as a final disposition of this matter.

IT IS HEREBY AGREED TO BY THE RESPONDENT AND THE ARKANSAS PSYCHOLOGY BOARD THAT:

1. Respondent has read the proposed Consent Order, acknowledges his right to consult with counsel, and voluntarily agrees to enter into this Consent Order on his own volition and without any reliance upon any representations by the Board or any officer, employee, agent, or other representative thereof, other than expressly set forth herein.

2. Respondent hereby waives any further procedural steps including, without limitation, the right to a hearing and all rights to seek judicial review or to otherwise challenge or contest the validity of this Consent Order.

3. Respondent agrees to this Consent Order for the purpose of resolving the pending matter without further administrative action. In this regard, Respondent agrees that the Board will review and determine whether to approve this Consent Order. Furthermore, should this Consent Order not be approved by the Board, Respondent agrees that the presentation and consideration of this Consent Order by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation in, consideration, or resolution of the matters involved herein at any subsequent hearing.

4. Respondent understands and agrees that approval and entry of this Consent Order shall not preclude additional proceedings by the Board against Respondent for acts or omissions not specifically addressed herein.

5. This agreement shall not become a valid and enforceable order of this Board unless and until it is accepted and approved by the Board at an official meeting and executed by the Chair of the Board or his designee.

6. This Consent Order and the Board's records in regard to this proceeding are public records that are available to the public pursuant to the Freedom of Information Act, Ark. Code Ann. § 25-19-101, et. seq.

FINDING OF FACTS

F.1. Respondent is a licensed Psychologist in the State of Arkansas and holds license number 88-12P, and is therefore subject to the Board's licensing law and regulations (including the American Psychological Association's *Ethical Principles of Psychologists and Code of Conduct)* and the Board's disciplinary jurisdiction.

F.2. In a Complaint, dated December 10, 2014, filed by J. David John ("Complainant") it is alleged that Respondent violated one or more ethical Standards pertinent to the practice of psychology while providing psychology services to the parents of a minor child during litigation in the Circuit Court of Benton County, Arkansas, Domestic Relations Division. Complainant is the father of that minor child. This Complaint included violations of the following Arkansas Law, Arkansas Psychology Board Rules and the Ethical Standards found in the American Psychological Association's *Ethical Principles of Psychologists and Code of Conduct*:

a. Ark. Code Ann. § 17-97-310 (a) (8);

b. Arkansas Psychology Board Rule 11.6 (H) and (I); and

c. APA Ethical Standards 3.01 (Unfair Discrimination; 3.03 (Other Harassment; 3.04 (Avoiding Harm); 3.05(a) (Multiple Relationships); and 3.06 (Conflict of Interest). During the course of its investigation of this complaint, the Board's Complaints Screening Committee perceived additional allegations of violations of APA Ethical Standards 3.10(d) (Informed Consent) and 10.01(a) (Informed Consent to Therapy).

F.3. Respondent was ordered by the court on October 9, 2013, to provide psychological evaluations of the mother and Complainant, which evaluations were completed in October and November 2013. Subsequently, Respondent provided expert witness testimony at a court hearing on January 4, 2014, and provided opinions, including a diagnosis of the Complainant, and recommendations to the court, including that the litigants would benefit from mediation. On February 27, 2014, the court issued an order appointing Respondent to provide mediation services to the litigants, but that order also described the services to be provided as being counseling. Respondent thereafter conducted four (4) sessions with the litigants on March 5, 2014; April 2, 2014; May 5, 2014; and May 29, 2014. In a letter dated May 24, 2015, Respondent admitted that the four (4) sessions provided in 2014 were clearly a therapeutic process and not mediation. Respondent also subsequently admitted that he did not have documentation of informed consent obtained from the litigants for the conduct of those therapeutic sessions.

F.4. A review of all of the evidence did not sufficiently substantiate violation of APA Ethical Standards 3.01, 3.03, 3.04, and 3.06. The Board's Complaints Screening Committee found probable cause to believe that Respondent had violated Standards 3.05(a), 3.10(d), and 10.01(a). Respondent disputed a violation of Standard 3.05(a) but did acknowledge violations of Standards 3.10(d) and 10.01(a).

CONCLUSION OF LAW

Respondent, Martin T. Faitak, Ph.D., License # 88-12P, did admittedly engage in violations of APA Ethical Standards 3.10(d) and 10.01(a). Respondent has not admitted violating APA Ethical Standard 3.05(a). The admitted actions constituted violations of the forgoing enumerated Statutory, Regulatory, and APA Ethical Standards. The Board agrees to treatment of the allegation of an APA Ethical Standard 3.05(a) as a non-admission by the Respondent even though it believed there was also probable cause for a finding of a violation of that 3.05(a) Standard.

ORDER

Based upon the evidence of record and the foregoing Findings of Facts and Conclusions of Law, it is agreed and the Board orders the following:

It is therefore the Order of this Board, with full agreement by the Respondent, that the Respondent, Martin T. Faitak, Ph.D., License # 88-12P, shall incur the following sanctions:

A. A Letter of Reprimand for the admitted violations Standards 3.10(d) and 10.01(a) is appropriate, and this Order shall be deemed as the issuance of that reprimand.

B. Respondent shall pay a fine in the amount of $2,000.00, payable within ten (10) days that the fully executed Agreement becomes effective.

C. Respondent shall successfully complete six (6) hours of face-to-face continuing education pertaining to psychological ethics with particular incorporation of issues involving Multiple Relationships and Informed Consents. The course must be APA authorized and must be pre-approved by the Board. This ethics continuing education is in addition to, and not part of, the annually-required

twenty (20) hours of continuing education expected of all licensees for renewal of a license. This continuing education action is due within six (6) months of the effective date of this Agreement.

D. A copy of this fully executed Consent Order will be placed in Respondent's Complaint file and General Licensure file. Any violation of the terms and conditions of this Consent Order may subject the Respondent to additional disciplinary proceedings.

IT IS SO ORDERED THIS 6th DAY OF January, 2016.

ARKANSAS PSYCHOLOGY BOARD:

Maggie Sponer

Maggie Sponer, Board Administrative Director

Agreed to and Approved by:

Martin T. Faitak Ph.D.

Martin T. Faitak, Ph.D., Respondent