

BEFORE THE INDIANA STATE
PSYCHOLOGY BOARD
CAUSE NO.: 2005 ISPB 0001

STATE OF INDIANA,)
)
 Petitioner,)
)
 v.)
)
 SUSAN E. SPENCER, Ph.D.,)
 License Number: 20040523,)
)
 Respondent.)



AMENDED COMPLAINT

The State of Indiana, by counsel, Deputy Attorney General, Steven P. Douglas, on behalf of the Office of the Attorney General ("Petitioner"), and pursuant to Indiana Code § 25-1-7-7 et seq., Ind. Code §25-1-5-3, Ind. Code § 25-33-1-3 et seq., the Administrative Orders and Procedures Act, Ind. Code § 4-21.5-3 et seq. and Ind. Code § 25-1-9 et seq. files its Amended Complaint against the Psychologist license of Susan E. Spencer, Ph.D. ("Respondent"), and in support alleges and states:

FACTS

1. Respondent's address on file with the Board is 6630 Twelve Oaks Drive, Anderson, Indiana 46013, and she is a psychologist holding Indiana license number 20040523.
2. On or about October 26, 2001, Respondent conducted a consultation with a minor child, M.A., and his non-custodial parent, Stephen Anderson. Mr. Anderson was seeking custody of M.A. through Madison County Superior Court and requested Respondent conduct an interview.

3. Respondent interviewed M.A., his father and his father's sister for approximately two hours. They reported to Respondent that M.A. had become unhappy living with his mother and wanted to live with Mr. Anderson.

4. At Mr. Anderson's request, Respondent, submitted a "Report of Psychological Consultation" to the court recommending the Court "look at the situation and make whatever changes possible to alleviate the stress this child is experiencing."

5. Based on statements made during the interviews, Respondent reported to the court that there had been a significant negative change in the custodial mother's home, which was affecting M.A. socially, academically and emotionally.

6. Respondent was called upon to testify at an emergency custody hearing in November 2001. Subsequent to the initial hearing, all parties were ordered to participate in a complete "custody modification evaluation" with Respondent.

7. Respondent did not recuse herself after the Judge ordered her to conduct a custody evaluation on clients with whom she had a prior professional relationship.

8. Respondent proceeded to conduct a complete evaluation of all parties and submitted a final report to the Court recommending physical custody be awarded to the father, Mr. Anderson.

9. On or about July 23, 2001, the Madison County Superior Court issued an Order. The Order called for a psychological evaluation of minor child, N.S., by Dr. Thomas Murray for the purposes of determining child visitation, and problems between Linda Phelps, mother of N.S. and custodial parent, and Brian Sell, father of N.S. and non-custodial parent. The Respondent testified at this hearing.

10. At the July 23, 2001 hearing, the Respondent testified regarding the records of N.S. Under questioning by the attorney of Linda Phelps, the Respondent testified that, in her opinion, Brian Sell should not have access to his daughter's records. The Respondent also testified about Mr. Sell's personality characteristics, even though she had never met Brian Sell or evaluated him in a professional context. Respondent stated that she believed Mr. Sell's knowledge of N.S.'s records could be detrimental to N.S. Respondent met with N.S. on only two (2) occasions for consultations. N.S. was not a therapeutic client of the Respondent's.

11. Ms. Phelps was originally sent to Respondent by her attorney for consultation regarding her concerns of possible sexual abuse by Brian Sell against N.S. Ms. Phelps presented seven (7) pages of drawings her daughter, N.S. had drawn. Several of the drawings allegedly depicted penises on people. Respondent consulted with Ms. Phelps and sent a follow-up letter to the attorney. Respondent, however, did not notify law enforcement or Child Protective Services.

12. After learning of his daughter's visit to Respondent, Brian Sell, N.S.'s non-custodial parent requested N.S.'s records from the Respondent. The Respondent refused to send the records. Respondent instead contacted Ms. Phelps who asked that the records not be sent.

13. Mr. Sell repeatedly attempted to contact the Respondent in his efforts to get copies of the records. Respondent chose to ignore Brian Sell's messages and letters and testified to this at the July 23, 2001 hearing.

14. Several motions were made in the Madison County Court between Linda Phelps and Brian Sell. Ms. Phelps sought to bar Mr. Sell from getting the records. Mr. Sell sought to get the records.

15. Having been refused the records on his daughter, Brian Sell filed complaints against the Respondent with the American Psychological Association ("APA") and the Attorney General's Office.

16. On or about September 6, 2001, the Respondent sent a letter to Mr. Sell regarding N.S.'s records and Mr. Sell's complaints to the Attorney General's Office and the APA. In this letter, the Respondent states:

It has been necessary for me to spend numerous hours writing letters to various agencies with whom you filed complaints, copying records for the Court, phone calls with those agencies, attorneys, etc. Due to the volume of work which you have created, it is necessary for you to reimburse me for my time.

Please forward to me a bank draft or money order in the amount of \$350 at your earliest convenience. As soon as I receive it I will personally deliver the records to Dr. Murray. They will undoubtedly be helpful to him in completing his evaluation. As the custodial parent, Linda can request the records be sent. However, if you do not wish the records to be sent, the amount owed remains the same and your wishes will be recorded.

17. On or about January 28, 2003, the APA confirmed in a letter to Brian Sell that the Respondent's was in violation of Standards 7.02(a), 7.02(b), 7.02(c) and 1.25(b) of the 1992 Ethics Code and was censured.

18. In her Response to the Attorney General's inquiries, the Respondent admitted to withholding the records of N.S. requested by Brian Sell. The Respondent also admits to sending Brian Sell the bill referenced above in item #15.

COUNT I

19. Averments 1 through 18 are repeated and incorporated herein by reference.

20. Respondent's conduct constitutes a violation of Ind. Code § 25-1-9-4(a)(3) a practitioner has knowingly violated any state statute or rule or federal statute or regulation regulating the profession, to wit: 868 IAC 1.1-11-4.1(e) which requires a psychologist, when a potentially harmful relationship becomes apparent, to clarify the nature of the relationship and attempt to resolve it with due regard for the best interests of the patient or client.

21. Respondent's failure to comply with the above referenced standards is cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or a revocation of license, and a fine up to the amount of \$1000.00 per violation, as detailed at Ind. Code § 25-1-9-9 and Ind. Code § 25-23-1-7.

COUNT II

22. Averments 1 through 21 are repeated and incorporated herein by reference.

23. Respondent's conduct constitutes a violation of Ind. Code § 25-1-9-4(a)(3) a practitioner has knowingly violated any state statute or rule or federal statute or regulation regulating the profession, to wit: 868 IAC 1.1-7-5(d) failure to act within generally accepted ethical principles and guidelines of the profession and maintaining an

awareness of personal and professional limitations, to wit: failure to follow the American Psychological Association guidelines.

24. Respondent's failure to comply with the above referenced standards is cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or a revocation of license, and a fine up to the amount of \$1000.00 per violation, as detailed at Ind. Code § 25-1-9-9 and Ind. Code § 25-23-1-7.

COUNT III

25. Averments 1 through 24 are repeated and incorporated herein by reference.

26. Respondent's conduct constitutes a violation of Ind. Code § 16-39-2-9 in that she ignored Brian Sell's request for his daughter's records.

27. Respondent's failure to comply with the above referenced standards is cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or a revocation of license, and a fine up to the amount of \$1000.00 per violation, as detailed at Ind. Code § 25-1-9-9 and Ind. Code § 25-23-1-7.

COUNT IV

28. Averments 1 through 27 are repeated and incorporated herein by reference.

29. Respondent's conduct constitutes a violation of 868 IAC 1.1-11-5(b) in that she made an assessment of Brian Sells without being able to sufficiently substantiate the finding and APA Ethics (1992) section 2.01 in that she testified about the personality

characteristics of Brian Sell based only on his letters to her and the messages he left on her answering machine.

30. Respondent's failure to comply with the above referenced standards is cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or a revocation of license, and a fine up to the amount of \$1000.00 per violation, as detailed at Ind. Code § 25-1-9-9 and Ind. Code § 25-23-1-7.

COUNT V

31. Averments 1 through 30 are repeated and incorporated herein by reference.

32. Respondent's conduct constitutes a violation of Ind. Code § 16-39-9 in writing her letter of September 6, 2001 to Brian Sell.

33. Respondent's failure to comply with the above referenced standards is cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or a revocation of license, and a fine up to the amount of \$1000.00 per violation, as detailed at Ind. Code § 25-1-9-9 and Ind. Code § 25-23-1-7.

COUNT VI

34. Averments 1 through 33 are repeated and incorporated herein by reference.

35. Respondent's conduct constitutes a violation of APA Ethics (1992), section 5.11 in that she has withheld records for lack of payment.

36. Respondent's failure to comply with the above referenced standards is

cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or a revocation of license, and a fine up to the amount of \$1000.00 per violation, as detailed at Ind. Code § 25-1-9-9 and Ind. Code § 25-23-1-7.

COUNT VII

37. Averments 1 through 36 are repeated and incorporated herein by reference.

38. Respondent's actions constitute a violation of 868 IAC 1.1-11-5(a) in that she provided evaluations concerning N.S. after only performing two (2) consultations rather than being involved in a professional relationship.

39. Respondent's failure to comply with the above referenced standards is cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or a revocation of license, and a fine up to the amount of \$1000.00 per violation, as detailed at Ind. Code § 25-1-9-9 and Ind. Code § 25-23-1-7.

COUNT VIII

40. Averments 1 through 39 are repeated and incorporated herein by reference.

41. Respondent's actions constitute a violation of Ind. Code § 25-1-9-4(a)(4)(B) in that she has failed to keep abreast of current professional theory and practice.

42. Respondent's failure to comply with the above referenced standards is cause for disciplinary sanctions which may be imposed singly or in combination such as censure, a letter of reprimand, probation, suspension, or a revocation of license, and a

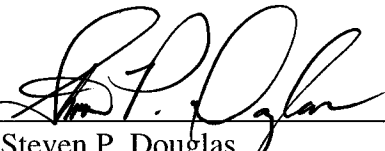
fine up to the amount of \$1000.00 per violation, as detailed at Ind. Code § 25-1-9-9 and Ind. Code § 25-23-1-7.

WHEREFORE, Petitioner demands an order against the Respondent, that:

1. Imposes the appropriate disciplinary sanction;
2. Directs Respondent to immediately pay all the cost incurred in the prosecution of this case;
3. Provides any other relief the Board deems just and proper.

Respectfully submitted,

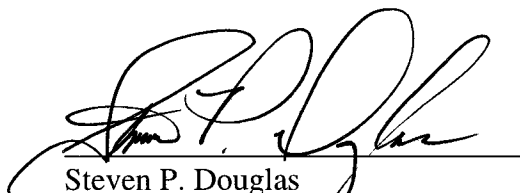
STEVE CARTER
Attorney General of Indiana

By: 
Steven P. Douglas
Deputy Attorney General
Attorney No.: 24154-53

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing "Complaint" has been served upon the Respondent's counsel of record, listed below, by United States mail, first class postage prepaid, on this 8th day of November, 2005:

Douglas R. Long, Esq.
403 West 8th Street, Suite 3
Anderson, IN 46016-1311



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