



1 taken against respondent. The contested case hearing was con-  
2 ducted under the Oregon Administrative Procedures Act, ORS Chap-  
3 ter 183. The Board is required to conduct any contested case  
4 hearing under ORS Chapter 183. ORS 675.540; OAR 877-40-  
5 025(2)(a).

6 6. Notice of proposed revocation of registration was  
7 delivered to respondent. Exhibit "1" is an affidavit of mailing  
8 which verifies that respondent was mailed notice by certified  
9 mail and first class mail on June 14, 1985. Exhibit "2" is a  
10 return receipt, certified mail, which acknowledges acceptance of  
11 notice by respondent on July 1, 1985.

12 7. During the July 9, 1985, contested case hearing, testi-  
13 mony was offered as follows:

14 (a) The complainant filed a complaint with the Board  
15 received March 4, 1985. Exhibit "3". The complainant  
16 states that, "I have been a victim of sexual abuse from  
17 the age of 6 years old and have not yet resolved all of  
18 my issues obviously." Exhibit "3". The complainant  
19 alleges injury from the sexual contact. "I have  
20 recently re-entered counseling to deal with my victimi-  
21 zation and the anger at Mike which I have directed into  
22 myself rather than at him." Exhibit "3". The complain-  
23 ant alleges further injury because respondent discussed  
24 the above incident with other people. Exhibit "3".

25 (b) Complainant was in attendance, and offered the fol-  
26 lowing testimony. On or about April 1, 1984,

1 complainant attended a birthday party in her honor  
2 which was arranged and held by respondent. Complainant  
3 and respondent availed themselves of alcoholic beverages,  
4 made available by respondent. Complainant testified  
5 that she approached respondent to discuss her  
6 relationship problems with her ex-fiance. At respondent's  
7 suggestion, complainant and respondent left the  
8 living room to step outside. Complainant testified  
9 that she and respondent entered the hot tub. Complainant  
10 is unsure which party made sexual overtures.  
11 While in the hot tub, complainant and respondent  
12 engaged in sexual intercourse. Complainant testified  
13 that she attended one counseling session with respondent  
14 in December, 1983, and two counseling sessions per  
15 month in March, June, and July of 1984.

16 (c) Respondent failed to attend the July 9, 1985, contested  
17 case hearing. Respondent replied to the Board request  
18 for information regarding the incident in a letter  
19 dated April 23, 1985, and labeled Exhibit "4". After  
20 discussing circumstances leading up to the incident,  
21 respondent writes, "When we went outside, it was cold,  
22 and she suggested we get into the hot tub, which I  
23 unfortunately acceded to. Her amorous approach continued  
24 there, and I complied and engaged in sexual  
25 activity. As I've said, I did engage in sexual contact  
26 with <sup>3,</sup> [REDACTED]." Exhibit "4", page 3. Respondent

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1 verifies that complainant was a client. "In December  
2 of 1983, <sup>S,</sup> ██████ requested counseling services from  
3 myself and my private practice partner, <sup>D.H.</sup> ██████  
4 ██████." Exhibit "4", page 1. "Counseling sessions  
5 were infrequent and sporadic, would occur for from one  
6 to four sessions, then curtail for a month or two  
7 \* \* \* \* " Exhibit "4", page 2. Respondent writes,  
8 "Later that morning, upon sobering up more, I began to  
9 feel very guilty, and discussed what had occurred with  
10 my partner, <sup>D.</sup> ██████. We both felt that the best course  
11 was to talk with <sup>S,</sup> ██████ about what had occurred, which  
12 we did twice in the following week: [sic] I apologized,  
13 and told her that what had occurred had been poor judg-  
14 ment and inappropriate on my part. We suggested <sup>S,</sup> ██████  
15 terminate treatment with us, and referred her to  
16 several therapists. However, she said that she felt  
17 resolved about the situation, didn't want to and  
18 wouldn't go to another therapist, and wanted to remain  
19 in counseling with us. We somewhat reluctantly agreed,  
20 since she needed support and counseling due to her life  
21 difficulties." Exhibit "4", page 4.

22 (d) Respondent is a registered clinical social worker,  
23 registration No. 682. Respondent was a registered  
24 clinical social worker during all relevant times in  
25 1983, 1984, and 1985.

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1 (e) Respondent, in his letter dated April 23, 1985, labeled  
2 Exhibit "4", alleges mitigating circumstances. First,  
3 respondent alleges that it was difficult to separate  
4 out professional, social and counseling relationships  
5 because they were co-workers at Children's Services  
6 Division. Exhibit "4", page 1-2. Second, respondent  
7 alleges that complainant amorously approached him  
8 between 4:30 or 5:00 a.m. and that he suggested they go  
9 outside. <sup>3.</sup> [REDACTED] was being quite loud, and since I was  
10 feeling groggy and unsteady, I suggested we go outside  
11 to talk (and clear my head), rather than awakening the  
12 others." Exhibit "4", page 3. Third, respondent  
13 alleges that complainant approached another male with  
14 sexual advances prior to awakening him. Exhibit "4",  
15 page 3. Fourth, complainant alleges he continued to  
16 provide clinical services because he felt "she needed  
17 support and counseling due to her life difficulties."  
18 Exhibit "4", page 4.

19 (f) Exhibits "6A", "6B", and "6C" are insurance receipts  
20 for disbursements for clinical therapy provided by  
21 respondent to complainant. The receipts for disburse-  
22 ments verify complainant's and respondent's testimony  
23 that clinical services were provided complainant on or  
24 about March 3-10, 1984 (Exhibit "6A"), June 8-10, 1984  
25 (Exhibit "6B"), and July 13-22, 1984 (Exhibit "6C").

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1 payment for clinical services provided prior and subsequent to  
2 occurrence of the incident.

3 The Board finds that respondent violated OAR 877-30-  
4 005(1)(c) by engaging in sexual acts with clients.

5 The Board further finds that no mitigating circumstances  
6 justify respondent's patent violation of the registered clinical  
7 social worker's Code of Ethics. The Board finds that respondent  
8 should have refused to accept complainant as a client if he rea-  
9 sonably believed that provision of counseling services was not  
10 possible due to their professional and social relationship.

11 Second, respondent set the stage for the breach of the Code of  
12 Ethics. Respondent provided alcohol at the party, voluntarily  
13 became intoxicated, and encouraged complainant to go outside.

14 Third, respondent knew or should have known that complainant had  
15 been a victim of sexual abuse. Respondent knew or reasonably  
16 should have known his actions would interfere with provision of  
17 counseling services for this problem. Additionally, respondent  
18 acknowledges that complainant needed support and counseling due  
19 to her life difficulties. Respondent knew or reasonably should  
20 have known that is activity would interfere with provision of  
21 such treatment.

22 THEREFORE, the Board of Clinical Social Workers hereby  
23 revokes the certificate of registration of Michael Spens,  
24 Registered Clinical Social Worker No. 682.

25 DATED this 13th day of August, 1985.

Signature on File in Board Office

J. Stefan Gonzalez, Presiding Officer

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