

BEFORE THE  
STATE BOARD OF CLINICAL SOCIAL WORKERS  
STATE OF OREGON

COPY

In the Matter of the License as a	)	
Clinical Social Worker of	)	Case No. 99-06
	)	Ref. No. 02012
Leo Munter, MSW (License #167)	)	
1225 NW Murray Road, #201	)	FINAL ORDER
Portland, OR 97229	)	

**THE ISSUE:**

On November 18, 1999, the Oregon State Board of Clinical Social Workers (Board) issued a Notice of Proposed Disciplinary Action to revoke the clinical social worker license of Leo Munter, MSW (Licensee), for unprofessional conduct under ORS 675.540 and Oregon Administrative Rules (OAR) 877-030-0070.

**FINDINGS OF FACT:**

1. Licensee has been a Licensed Clinical Social Worker (LCSW) since 1978. He has been the subject of one prior disciplinary action by the Board. On April 10, 1989, the Board filed a complaint against Licensee seeking revocation of Licensee's (then) Registration based on allegations that he had engaged in a sexual act with a client. Licensee eventually signed a stipulated settlement agreement with the Board on July 10, 1989. In the settlement agreement, Licensee accepted disciplinary action "pursuant to complaints filed against me regarding an ongoing course of conduct involving injurious dual relationships between myself and clients." Under the terms of the agreement, Licensee stipulated to the revocation of his registration, with the immediate suspension of the revocation for a five-year probationary period and the appointment of a supervisor to assist Licensee in following appropriate ethical standards in his practice for five years.

2. Licensee continued his practice for a five-year period without further complaints of unethical conduct. During this period Licensee worked under the supervision of a Board-approved LCSW, one of five experienced LCSW's suggested for Licensee by the Board. Licensee met with the Board-approved supervisor during 23 scheduled sessions from April 1991 through April 1992. Licensee's sessions with the LCSW supervisor included extensive discussions of ethical issues, including how to establish treatment boundaries with clients so as to avoid dual relationships, and the significance of boundary crossings as they relate to emotional, physical and social situations. In an April 1, 1992 letter to the Board, the LCSW supervisor wrote: "It is my opinion that Leo is aware of the ethical issues raised in the previous complaints. He has demonstrated earlier recognition of situations where ethical violations could

occur and has developed mechanisms to avoid such situations." The Board lifted Licensee's suspension in July 1994.

3. Licensee began providing therapeutic services for a client named BEM in September 1994. He had already been treating BEM's husband, FM, a Portland Police Officer, for several months. Initially, Licensee's therapeutic sessions with BEM included her husband. The subject matter of these early sessions concentrated on marital difficulties between the couple. FM had been the subject of an internal police investigation alleging that he had sexual relations with a citizen while on duty. Although FM was eventually cleared of these allegations, the investigation placed significant stress on their marriage.

4. Eventually Licensee began seeing BEM without her husband. The subject matter of these sessions broadened to include other topics besides BEM's marriage. Licensee never drafted a written treatment plan for BEM, nor discussed specific treatment goals with her, though this was sometimes his practice with other clients. BEM understood that the general purpose of her sessions with Licensee was to improve the stability of her marriage and enable both herself and her husband to develop as individuals.

5. BEM and her husband continued to see Licensee both individually, and together, from the end of 1994 through 1997. BEM often scheduled sessions on occasions when she was experiencing personal difficulties. She arranged these meetings by telephone and always attended therapeutic sessions in Licensee's office. Over time, BEM gradually developed a bond of trust with Licensee. She also developed a high regard for Licensee's abilities as a clinical social worker. While BEM was receiving therapeutic services from Licensee, she referred at least 10 family members, friends and acquaintances to Licensee for therapeutic services. In addition she exchanged e-mail addresses with Licensee in 1996 and she began to correspond with him on a sporadic basis.

6. BEM was working toward licensure to become a therapist and clinical social worker when she began her therapeutic relationship with Licensee. In 1996 she began working in the field of adoptions. During sessions with Licensee, she sometimes discussed her work in adoptions. She also sometimes discussed her career ambitions. She began to view Licensee as an advisor and resource in developing her career. Licensee occasionally e-mailed her regarding possible adoption contacts. BEM reciprocated on at least one occasion by informing Licensee via e-mail about some work available through Washington County. In addition, Licensee began to share personal information and emotions with BEM. During a June 1997 appointment in Licensee's office, Licensee told BEM that he was depressed because his relationship with a female attorney who had shared his office for a time had ended. He also told BEM that he was taking an antidepressant and that antidepressants impaired sexual function.

7. Among those individuals who BEM recommended to Licensee was KA, an acquaintance BEM had met through her children's preschool provider. BEM recommended repeatedly that KA undergo therapy with Licensee in an effort to salvage her marriage. KA attended a solo session with Licensee in late May 1997 and attended a second session in the company of her husband in early June 1997. BEM and KA formulated a plan under which KA's husband met with KA at Licensee's office without fully understanding the reason for

being there. KA elected not to pursue any further therapy sessions with Licensee because she could not afford them.

8. By the summer of 1997, BEM had begun the clinical portion of her training at Portland State University. She began to actively seek advice from Licensee regarding her training as a clinical social worker and her career goals. Eventually Licensee suggested that they meet over lunch and BEM accepted. Neither Licensee or BEM advised BEM's husband that they intended to meet outside Licensee's office in a non-therapeutic setting.

9. On July 16, 1997, BEM and Licensee met for lunch at the Oregon School of Arts and Crafts in Washington County. The purpose of their meeting was to discuss some ideas that BEM had regarding supervised visitation. Licensee provided BEM with the names of individuals who were already involved in supervised visitation and described what he knew about their activities. As BEM parted from Licensee in the parking lot outside the School of Arts and Crafts, Licensee pulled her close to him, hugged her and then kissed her on the lips in a manner that BEM found sexual.

10. After the July 16, 1997 lunch at the School of Arts and Crafts, BEM and FM had approximately four more clinical sessions with Licensee. During the sessions when BEM came to his office without her husband, licensee sometimes touched and kissed BEM as the sessions ended in a way that BEM found to be sexual.

11. BEM's final therapeutic session with Licensee was on September 24, 1997. During this session BEM discussed a failed adoption with Licensee. Neither she nor Licensee expressed an interest in concluding their therapeutic relationship during this session. However, near the end of the session, Licensee advised BEM that he had an extra ticket to a Prince concert and that he was considering inviting KA. After returning home following the September 24, 1997 sessions, BEM received a telephone call from KA. KA informed BEM that she was "seeing Leo." BEM was distressed by this news and called Licensee. Licensee invited BEM to return to his office later that evening, after his last client appointment. Licensee and BEM met again on September 24, 1997 at about 9:00 p.m. BEM objected in an emotional manner to Licensee seeing KA in a social setting. She accused him of placing both KA and herself in a difficult situation. Licensee also became upset. They discussed, among other things, the prior disciplinary proceeding involving Licensee and the affect that becoming involved in a sexual relationship could have on his career.

12. A week later, BEM encountered Licensee with KA at the Prince concert. BEM was there with her husband. She continued to be troubled and upset by Licensee's relationship with KA because she considered KA to be Licensee's client. On October 20, 1997, BEM sent an e-mail to Licensee expressing her anger and disappointment with Licensee. This lengthy e-mail provided, in part: "Leo, I wish I knew how to feel OK about this but I can't. You have known that you have had issues in this area before and you went straight ahead with your eyes wide open. I am really feeling plagued with knowing this and I don't know who I can talk to manage my own anxiety about this." *See Exhibit 10, pg. 5.*

13. In October 1997 Licensee sought advice from Dr. S, a former member of the Oregon Psychological Associate's ethics committee. Dr. S advised Licensee that he should terminate his personal and professional relationships with both BEM and KA.

14. In late October or early November 1997, Licensee met BEM at a delicatessen in Cedar Hills. During this meeting Licensee was apologetic for his behavior with KA. He told BEM further that he was getting help from a therapist. He exhibited no behavior and made no statements that BEM considered to be sexual. Licensee and BEM parted on friendly terms.

15. On November 22, 1997, BEM sent Licensee an e-mail that stated: "I miss you." Licensee responded: "Very sweet." BEM inquired: "Do I ever get to see you again?" Licensee replied: "Oh BEM or course. Want to talk?"

16. Licensee and BEM met later on November 26, 1997 at the Hall Street Bar and Grill in Beaverton. After talking for approximately an hour, they left the restaurant together. They walked to BEM's car. They kissed and caressed one another for several minutes before BEM got into her car and drove off. Later that evening, Licensee and BEM communicated via computer using "instant messages." Instant messages are e-mail messages that are not stored in a computer's memory and cannot be retrieved. The topic of these e-mail messages was to meet for the purpose of having sex. Although Licensee and BEM traded messages for an extended period, they did not meet again that evening and they did not make definite plans for any future meetings.

17. On the following day, Thanksgiving, BEM received a voice mail message from Licensee at about 11:30 p.m. The voice mail message requested that BEM come to Licensee's office and pick up something from a mailbox. BEM complied with this request. During the late morning on Friday, November 28, 1997, BEM stopped by Licensee's office and opened the mailbox that Licensee had described in his voice mail. Inside she found a cassette tape. After she removed the cassette tape from the mailbox, she saw Licensee approaching her. Licensee told her to listen to the tape in her car and then come up to his office. BEM listened to the tape and found that it contained several songs, including one instrumental tune and at least two songs that included lyrics. BEM interpreted the songs to mean that Licensee believed that their sexual relationship "was not a good thing." Nevertheless when BEM entered Licensee's office a short time later, Licensee hugged and then kissed her in a passionate manner. They walked to a couch and engaged in sexual intercourse.

18. FM and BEM continued to live together as husband and wife through the end of 1997. However their relationship deteriorated between November 1997 through January 1998. FM moved out of their residence in January 1998.

19. On February 13, 1998, Licensee and BEM met and had dinner together at the Alexis Restaurant in Portland. Later they drove together to BEM's home. They spent the evening together and had sexual intercourse.

20. Several weeks later, in March 1998, Licensee and BEM met for dinner at Jazz De Opus in Portland. Following the dinner they drove separately to Burlingame Market, which

was located near BEM's home. Licensee left his car in the parking lot at Burlingame Market and drove with BEM to her home. Licensee and BEM had sexual intercourse sometime after arriving at BEM's home.

21. BEM and Licensee gradually lost interest in their sexual relationship following their meeting at Jazz De Opus. Although they continued to communicate, there were no further meetings after March 1998. At some point in late March or early April 1998, BEM and Licensee discussed attending an Eric Clapton concert together over the telephone and became involved in an argument. BEM told Licensee that she hated him and hung up on him. In late January or February 1998, BEM had begun a relationship with another male friend, RS, a Portland area musician.

22. In August 1998, BEM began seeing another therapist, SN. At the time, BEM had a number of issues that compelled her to seek counseling. Her oldest daughter had made allegations that she had been subjected to sexual abuse. In addition, the disintegration of her marriage led to an eventual child custody dispute with FM. Although BEM told SN that she had been previously involved in couples therapy with Licensee, she did not initially disclose that she had become involved in a sexual relationship with him.

23. BEM first disclosed to SN on November 18, 1998 that she had been involved in a sexual relationship with Licensee. She later advised SN that she had not initially advised SN about the nature of this relationship because she was aware that SN would be obligated by ethical concern to report this information to the Board. She told SN that she did not want to burden SN with the responsibility of reporting another professional therapist to the Board.

24. BEM eventually filed a civil law suit against Licensee seeking monetary damages.

#### **CREDIBILITY DISCUSSION:**

Much of the State's evidence rested on the credibility of BEM. BEM appeared at the hearing, testified under oath over a lengthy period, and was subjected to cross-examination by both Licensee's attorney and the Hearing Officer. BEM's testimony throughout the proceeding was reasonably consistent, responsive, fluid, highly detailed, and delivered in a sincere manner. Her testimony regarding her lunch and dinner engagements with Licensee was supported by corroborating evidence in the form of credit card receipts. Although Licensee was represented by a capable attorney who made numerous efforts to impeach her testimony, these efforts were unsuccessful in the Hearing Officer's view. The Board adopts the Hearing Officer's conclusion that BEM's testimony was credible.

#### **CONCLUSIONS AND REASONS:**

The Board is charged with the task of regulating the professional practices of LCSW's in Oregon. The Board's activities, among other things, includes establishing minimum educational and professional standards of licensure. When complaints are filed with the Board regarding the practice of LCSW's, the Board is also responsible for conducting an investigation

and imposing professional disciplinary sanctions where necessary. ORS 675.540 provides, in relevant part:

**675.540 Grounds for disciplinary action; authorized sanctions; investigation.**

- (1) The State Board of Clinical Social Workers may impose any or all of the sanctions specified in subsection (2) of this section, upon proof, after a hearing pursuant to the provisions of ORS 183.310 to 183.550 relating to a contested case, that a person:
  - (d) Has been grossly negligent or has engaged in unprofessional conduct in the practice of clinical social work; or
  - (e) Has violated one or more of the rules of the Board pertaining to the certification or licensing of clinical social workers.
- (2) Pursuant to the provisions of subsection (1) of this section, the Board may:
  - (a) Deny, suspend, revoke or refuse to renew any certificate or license issued under ORS 675.510 to 675.600.

In this case the Board seeks to revoke Licensee's license under ORS 675.540(2)(a). The Board maintains that Licensee "engaged in unprofessional conduct" in violation of ORS 675.540(1)(d) and breached the Board's ethical rules regulating the conduct of clinical social workers toward clients.<sup>1</sup> More specifically, the Board alleges that Licensee violated the prohibitions against entering into "dual relationships" with clients and engaging in sexual relations with clients contained in OAR 877-030-0070.<sup>2</sup> This administrative rule provides, in relevant part:

**877-030-0070 Ethical Responsibility to Clients**

The clinical social worker's primary responsibility is to clients. The clinical social worker shall serve clients with professional skill and competence including but not limited to the following:

- (1) **Dual Relationship.** The clinical social worker must not violate his/her position of power, trust, and dependence by committing any act detrimental to the client. The clinical social worker shall not enter into a relationship with the client

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<sup>1</sup> ORS 675.510(6) contains a definition of unprofessional conduct that is applicable here. It provides: "Unprofessional conduct" includes, but is not limited to, any conduct or practice contrary to recognized standards of ethics of the social work profession or any conduct that constitutes or might constitute a danger to the health or safety of a client or the public or in any other manner fails or might fail to adhere to the recognized standards of the profession.

<sup>2</sup> OAR 877-030-0070 is part of OBCSW's "Code of Ethics for Certified and Licensed Clinical Social Workers." See OAR 877-030-0030 through OAR 877-030-0090. OAR 877-030-0090 provides that any violation of this code of ethics "may result in disciplinary proceedings under ORS 675.540."

that conflicts with the interests of the client to benefit from social work practice or one that may impair professional judgment and increase the risk of exploitation of the client for the clinical social workers' personal advantage.

- (4) The clinical social workers shall under no circumstance engage in or solicit sexual acts or sexual relationships with current clients nor with a client to whom the clinical social worker has at anytime within the previous three years rendered clinical social work practice.

The burden of presenting evidence to support a factual assertion in a contested case proceeding is on the proponent of that assertion. ORS 183.450(2). The standard of proof in an administrative proceeding is by a preponderance of the evidence. *Cook v. Employment Div.*, 47 Or App 437 (1980); *Metcalf v. AFSD*, 65 Or App 761 (1983) rev den 296 OR 411 (1984); *Gallant v. Board of Medical Examiners*, 159 Or App 175, 974 P2d 814 (1999).

Proof by a preponderance of the evidence means that the fact finder must believe that the facts asserted are more probably true than false. See *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390 (1987); *Cook v. Michael*, 204 Or 513 (1958). In this case, the Board bears the burden of demonstrating, by a preponderance of the evidence, that Licensee committed unprofessional conduct by violating OAR 877-030-0070(1) and OAR 877-0340-0070(4).

Although factually related and involving the same client, the Board's allegations regarding a dual relationship and a sexual relationship pose unique evidentiary and legal issues. As a result, the remainder of the Hearing Officer's decision will be divided into two parts. Section A of this decision will discuss the Board's assertion that Licensee engaged in a dual relationship with BEM in violation of OAR 877-030-0070(1). Section B will discuss the Board's assertion that Licensee engaged in a sexual relationship with BEM in violation of OAR 877-030-0070(4). Section C will provide a short summary.

#### **A. Dual Relationship**

The Board rule on Dual Relationships, OAR 877-030-0070(1), establishes a high standard of care for clinical social workers when engaging in non-therapeutic contacts with clients. It prohibits any "relationship...that conflicts with the interests of the client to benefit from social work practice or one that may impair [the social worker's] professional judgement." This is language that focuses as much on the consequences of relationships, as on the nature of these relationships themselves. While OAR 877-030-0070(1) stops short of discouraging all personal contacts with clients, it requires that clinical social workers proceed with caution in establishing relationships with clients outside the context of therapeutic sessions, so long as therapy continues.

The Board failed to meet its burden of proof that Licensee engaged in a dual relationship with KA. The evidence produced at hearing did not establish by a preponderance of evidence that a therapeutic relationship existed between Licensee and KA at the time that Licensee and

KA attended a concert together. Further, KA did not indicate during her testimony that she was harmed in any way through her personal relationship with Licensee.

With regard to the Board's allegations regarding BEM, its pleadings acknowledge that Licensee's therapeutic relationship with BEM ended on September 24, 1997, the date of their last therapeutic session together.<sup>3</sup> Accordingly, the period of time relevant to determine whether a dual relationship existed was the time between their first therapeutic session in 1994, and their final therapeutic session on September 24, 1997.

SN, an experienced therapist who began to treat BEM in the spring of 1998, presented credible and persuasive expert testimony regarding customary practices in the field of clinical social work. She testified about the importance of establishing clear boundaries to the therapeutic relationship, as a result of the feelings of dependence and disparity in power that customarily develop between clients and their therapists. She also testified that clients frequently feel distressed when therapeutic relationships are compromised by personal relationships that can sometimes seem manipulative or threatening. Her testimony was both supported and supplemented by a scholarly article entitled: *Patient-Therapist Boundary Issues: An Integrative Review of Theory and Research*, written by David Smith and Marilyn Fitzpatrick (Exhibit 8).<sup>4</sup>

The article introduces and describes the concepts of "boundary crossings" and "boundary violations" as a way of identifying personal contacts between a therapist and client that breakdown the integrity of the therapeutic relationship. During his testimony, Licensee acknowledged that he was familiar with these concepts and their application to the issue of avoiding dual relationships.<sup>5</sup> Indeed the LCSW supervisor's supervision of Licensee's practice in 1989, following the initial disciplinary suspension of Licensee's registration, included discussions of ways to preserve therapy boundaries and avoid boundary crossings. The Hearing Officer found, and the Board concurs, that these concepts are instructive in evaluating Licensee's compliance with OAR 877-030-0070(1), in light of prevailing standards among clinical social workers in Oregon.

Licensee engaged in a series of personal contacts with BEM that were not part of BEM's therapy, and amounted to boundary crossings prior to September 1997. While these boundary crossings were not initially harmful, their frequency and severity increased with time. They provided the building blocks for a growing and mutual personal attachment that impaired Licensee's professional judgment as a therapist, and endangered BEM's implicit therapeutic goal of supporting and rehabilitating her marriage. These boundary crossings included the

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<sup>3</sup> See First Amended Notice of Disciplinary Action at Paragraph 1.7.

<sup>4</sup> Published in "Professional Psychology: Research and Practice," 1995, Vol. 26, No. 5, 499-506. The article identifies the authors as doctoral candidates in Counseling Psychology at McGill University in Montreal, Canada (Exhibit 8).

<sup>5</sup> See hearing transcript, page 486-487. Exhibit 8 defines a boundary crossing as "a non-pejorative term that describes departures from commonly accepted clinical practice that may or may not benefit the client." Licensee indicated during cross-examination that he did not necessarily agree with this definition, but he did not offer a definition of his own.

exchange of increasingly intimate personal information, particularly Licensee's disclosures to BEM regarding the breakup of his relationship with an attorney, the antidepressants he was taking and the effect these antidepressants could have on sexual function.

Further, boundary crossings involved BEM's sometimes zealous efforts to promote Licensee's practice, including BEM's e-mail informing him about opportunities with Washington County and BEM's plan to trick KA's husband into accepting marital therapy. While Licensee had no direct control over these activities, there was no evidence that Licensee took any measures to discourage them. Finally, by arranging for a lunch with BEM, outside the therapeutic setting of his office, and with the intention of discussing BEM's ideas for supervised visitation, Licensee began to act as an advisor and mentor for BEM in her professional career, while he simultaneously continued as her therapist.

The lunch that Licensee arranged at the Oregon School of Arts and Crafts proved to be a watershed event in other ways as well. It is also the point at which the testimony of Licensee and BEM at the hearing began to significantly diverge. Based on the credibility discussion included above, the Hearing Officer attributes, and the Board concurs, that greater evidentiary weight be given to BEM's testimony than to the testimony of Licensee.

One further consideration here with regard to Licensee's credibility is an inconsistency between Licensee's testimony and the testimony of BEM's husband. Licensee testified at the hearing that he recognized that his meetings outside of his office with BEM to discuss non-therapeutic topics could be misunderstood, particularly by her husband, FM. For that reason, he "took pains" to communicate with FM about the purpose and limitations of these meetings. (*Transcript pg. 468*). However, FM testified that he was unaware that Licensee had met with BEM outside the office to discuss professional issues, or for any other purpose. (*Transcript pg. 524*).

Accordingly, the Board is persuaded that the personal relationship between Licensee and BEM developed one step further following their lunch at the Oregon School for Arts and Crafts to include physical displays of emotional attachment and sexual attraction. This behavior included mutual kissing, fondling and touching in a manner that BEM found to be sexual and exceeded the hugs Licensee had used to close therapeutic sessions prior to then.

This aspect of their personal relationship culminated with the emotional confrontation between BEM and Licensee in his office on September 24, 1997, immediately following their final therapeutic session together, and the disclosures made by Licensee and KA that they were attending a concert together.

The deterioration of Licensee's relationship with BEM is similar to the behavior that ended with Licensee's discipline by the Board in 1989 for engaging in a dual relationship. Over time, Licensee allowed escalating boundary crossings to evolve into an intimate personal relationship with a female client, which included physical displays of emotional attachment and sexual attraction. Since one of the primary goals of BEM's therapy was to support and rehabilitate BEM's marriage, and BEM was still living with her husband at the time, there can be little doubt but that Licensee's personal relationship with BEM compromised this therapeutic

goal. Further, SN established during her own testimony that BEM suffered from a combination of depression, anxiety and confusion in the wake of the dual relationship that developed between BEM and Licensee, and the sexual relationship that followed. The Board finds, based on a preponderance of the evidence presented at the hearing, that Licensee violated OAR 877-030-0070(1).

### **B. Sexual Relationship**

OAR 877-030-0070(4) expressly prohibits "sexual acts or sexual relationships" with clients or with individuals with whom "the clinical social worker has at anytime in the previous three years rendered clinical social work practices." In this case, the state alleges that Licensee maintained a sexual relationship with BEM between late November 1997 and March 1998. There are no significant issues of legal interpretation raised by these allegations. These events all occurred within the three year time frame established by OAR 877-030-0070(4) and the Board alleges that sexual activity between Licensee and BEM included sexual intercourse. The primary issues raised by these allegations are factual ones.

As already discussed above, the Hearing Officer found and the Board concurs that BEM is a more credible witness than Licensee. This determination is based partly on her demeanor at the hearing as well as the inconsistency between Licensee's testimony and the testimony of FM. However, it is also based on other supporting evidence in the record as well.

An important consideration here is the credit card receipts produced at the hearing. These receipts indicate that Licensee was at the Hall Street Bar and Grill on November 26, 1997, and the Alexis Restaurant on February 13, 1998, each being an occasion when BEM testified that she met privately with Licensee after their therapeutic relationship had ended. Licensee denied that he had met with BEM at the Alexis Restaurant on February 13, 1998. He maintained that he had met with someone else on that date, but he did not present this person as a witness at the hearing, nor was he able to identify who this person was.<sup>6</sup> Further, Licensee testified that he could not recall meeting BEM on November 26, 1997 at the Hall Street Bar and Grill, and thought it was unlikely that this occurred.

However, at the same time, Licensee also testified that he could not rule out the possibility that he may have met with BEM on November 26, 1997.<sup>7</sup> Based on the supporting evidence presented by the Board, and the indefinite, sometimes inconsistent and uncorroborated character of Licensee's testimony, the Hearing Officer is persuaded that Licensee met with BEM at the Hall Street Bar and Grill on November 26, 1997 and again at the Alexis Restaurant on February 13, 1998, in spite of Licensee's assertions to the contrary.

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<sup>6</sup> Licensee's denial that he met with BEM was definite. Transcript, pg. 451-452. However, in his concluding remarks, Licensee's attorney appeared to acknowledge that Licensee had met with BEM at the Alexis Restaurant on February 13, 1998. See Transcript, pg. 570.

<sup>7</sup> Licensee acknowledged that he met with BEM at the Hall Street Bar and Grill on one occasion after October 1997. However, he testified that it was more likely that this had occurred in December 1997. Transcript at pg. 439 through pg. 441.

Further, the nature and content of the e-mail messages exchanged by Licensee and BEM also provide support for BEM's testimony. None of these e-mail messages make explicit reference to sexual relations between Licensee and BEM. Indeed, the e-mail messages exchanged between the parties indicate that BEM was often quite assertive in initiating communication with Licensee. However, the content of these e-mail messages is always personal, and sometimes emotional and intimate. When considered together, this combination of private dinner meetings and frequent personal e-mail messages supports a finding that a strong personal and emotional attachment continued between Licensee and BEM after their therapeutic relationship had ended. While this is not direct evidence of a sexual relationship, this evidence supports BEM's testimony regarding the character of her relationship with Licensee between September 1997 and March 1998.

A final consideration here is the inconsistency between Licensee's statements about his intentions regarding BEM between September 1997 and March 1998 and his actions. Licensee testified repeatedly at the hearing that his intention was to discontinue his personal relationship with BEM after their therapeutic relationship had ended. According to Licensee, this decision was based on the "threatening" nature of the October 20, 1997 e-mail he received from BEM and the advice he received from Dr. S.

However, Licensee acknowledged that he met with BEM on two occasions after October 1997: once at the Hall Street Bar and Grill and once at Jazz De Opus. If Licensee considered BEM to be a threat to his career at this point, it is difficult to understand why he would have continued to meet with her in social settings, on multiple occasions, and exchange e-mail messages with her.

This is a troubling case in more ways than one. Licensee denied that a sexual relationship had existed between him and BEM. No witnesses appeared at the hearing that could confirm from personal knowledge, and on an objective basis, whether or not a sexual relationship existed between BEM and Licensee. As a consequence, the outcome of this case rests primarily on the relative credibility of these two individuals. Based on a close review of the record, the Hearing Officer found and the Board concurs that BEM's account of the events to be best supported by other evidence in the record, and to be the most credible. By a preponderance of the evidence, it has been demonstrated that Licensee violated OAR 877-030-0070(4).

### C. Summary

This is a difficult and disturbing case. Licensee has a long and apparently successful career as a Licensed Clinical Social Worker. His therapeutic skills were held in high regard by many of his clients, including both BEM and FM, prior to the fall of 1997. His testimony and demeanor at the hearing revealed him to be a sensitive, intelligent and capable individual. Nevertheless, the Hearing Officer was persuaded and the Board concurs that based on a preponderance of the evidence, that Licensee allowed his personal relationship with BEM to develop at the expense of their therapeutic relationship. By the time of their lunch appointment at the Oregon School of Crafts, the personal relationship had developed to the point where it jeopardized their therapeutic objective of salvaging and supporting BEM's marriage. In

addition, it set the stage for an eventual sexual relationship. Based on the preponderance of evidence in the record, the Hearing Officer concludes and the Board concurs that he violated OAR 877-030-0070(1).

Further, the Hearing Officer was persuaded and the Board concurs that based on a preponderance of the evidence, that Licensee allowed a sexual relationship to develop between himself and BEM, shortly after BEM's last therapeutic session. This was a clear violation of OAR 877-030-0070(4). In light of prior disciplinary sanction from the Board for engaging in a dual relationship with a client, Licensee's violations of OAR 877-030-0070(1) and OAR 877-030-0070(4), when considered separately or together, support a sanction of license revocation under ORS 675.540. The Board's Notice of License Revocation Suspension dated November 18, 1999 is sustained.

**ORDER:**

Licensee violated OAR 877-030-0070(1) (dual relationship) and OAR 877-030-0070(4) (sexual relationship). The Board's revocation of Leo Munter's license under ORS 675.540 is sustained.

Based upon the Findings of Fact and Conclusions of Law as described herein,

IT IS HEREBY ORDERED that the license to practice as a clinical social worker of Leo Munter, LCSW, is revoked.

DATED this 28<sup>th</sup> day of November, 2000.

State Board of Clinical Social Workers

Signature on File in Board Office

Elizabeth A. Buys, Administrator

**NOTICE:** You are entitled to judicial review of this Order pursuant to the provisions of ORS 183.480. Judicial review may be obtained by filing a petition in the Oregon Court of Appeals. The petition must be filed within 60 days from the date of service of this Order.

**GENERAL INFORMATION**

Date of Hearing Request:	January 12, 2000
Date of Hearing:	May 15, May 16, and July 27, 2000
Date of Proposed Order:	September 26, 2000
Place of Hearing:	Board Office in Salem, Oregon
Hearing Officer:	Steve Rissberger, Hearing Officer Panel
Claimant's Representative:	David C. Landis, Attorney
Board's Legal Counsel:	Caren J. Rovics, Assistant Attorney General