

1 **BEFORE THE BOARD OF LICENSED**
2 **PROFESSIONAL COUNSELORS AND THERAPISTS**
3 **FOR THE STATE OF OREGON**

4 In the Matter of:

Agency Case No. 2009-012

5 **LYLE S. BOURCY, LPC**

6 Respondent.

**FINAL ORDER BY DEFAULT DENYING
LICENSE RENEWAL**

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9 **HISTORY OF THE CASE**

10 On December 14, 2009, the Board of Licensed Professional Counselors and Therapists
11 (Board) issued a Notice of Intent to Deny License Renewal and Right to Request Hearing
12 (Notice) stating that the Board intended to deny Lyle S. Bourcy's (Respondent's) request to
13 renew his license as a Licensed Professional Counselor.

14 The Notice was served on Respondent by regular and certified U.S. Mail addressed to
15 Respondent at Respondent's last known address – 1159 SW 4th Avenue, Ontario, Oregon 97914
16 on December 14, 2009. The Notice informed Respondent of the opportunity for a hearing if
17 requested in writing and received within twenty-one (21) days of service of the Notice.
18 Respondent timely requested a hearing. On March 1, 2010, an Amended Notice of Intent to
19 Deny License Renewal (Amended Notice) was served on Respondent by regular and certified
20 U.S. Mail to the same address as noted above. Respondent was not required to file another
21 request for a hearing.

22 The hearing was originally set for May 27, 2010 before ALJ Monica A. Whitaker, but
23 later rescheduled to June 22-23, 2010 before ALJ Robert Goss. Both the Notice and the

1 Amended Notice informed Respondent that if he later withdrew his request for a hearing, that
2 “the Board may issue a Final Order by Default and impose the proposed discipline.” By email
3 dated June 17, 2010, Respondent withdrew his request for a hearing, and is therefore in default.
4 The Amended Notice further informed Respondent that in the event the Board issues a Final
5 Order by Default, the Board designates it file on this matter for purposes of proving a *prima facie*
6 case.

7 **NOW, THEREFORE**, after consideration of the records and files of the Board relating
8 to this matter, including all correspondences and other material received from Respondent, the
9 Board enters the following Findings of Fact, Conclusions of Law, Opinion and Order.

11 **FINDINGS OF FACT**

12 1. The Board of Licensed Professional Counselors and Therapists (Board) is the
13 state agency responsible for licensing, regulating and disciplining licensed professional
14 counselors and licensed marriage and family therapists.

15 2. Respondent is licensed as a professional counselor (LPC) and applied to renew his
16 LPC license.

17 3. ORS 675.745 sets out the bases upon which the Board may refuse to renew any
18 license. In particular, ORS 675.745(1)(h) provides that the Board may refuse to renew an
19 LPC license if the licensee “Has been disciplined by a state mental health licensing board
20 or program in this or any other state for violation of competency or conduct standards.”

21 4. Respondent was licensed as a professional counselor in Idaho (Idaho license). In
22 November 2008, the Idaho State Board of Professional Counselors and Marriage &
23 Family Therapists (Idaho Board) filed a formal complaint against Respondent for

1 multiple violations of the Idaho laws and rules governing the practice of professional
2 counseling.

3 5. The Idaho Stipulation and Consent Order Respondent agreed to and signed
4 contained facts that if proven would constitute multiple violations of Idaho laws and
5 rules. Such facts included but were not limited to the following:

6 5.1 In December 2005, Respondent began providing counseling services to
7 Client A, a young adult who was facing criminal charges. The counseling
8 services lasted until September 2007.

9 5.2 During Respondent's professional relationship with Client A, Respondent
10 gave Client A various gifts or loans, including cash, a vacuum cleaner,
11 cigars and a car. Respondent also visited Client A at Client A's residence
12 and followed Client A to an out of town campsite to give Client A a gift.

13 5.3 As part of the services he was providing to Client A, Respondent met with
14 Client A's parents (Mom and Father). Respondent then offered to provide
15 counseling services to Mom and Father. Respondent provided counseling
16 services to Mom from April to October 2007 without obtaining informed
17 consent from Client A.

18 5.4 During their professional counseling relationship, Respondent developed a
19 personal relationship with Mom. Respondent did not obtain informed
20 consent from Client A to continue his professional counseling relationship
21 with Client A at the same time Respondent was in a personal relationship
22 with Mom.

1 5.5 In June 2007, Client A expressed anxiety about parental involvement in
2 Client A's decision making. Respondent failed to withdraw from either
3 professional counseling relationship.

4 5.6 In September 2007, Client A terminated Respondent's services, alleging
5 that Respondent was having an affair with Mom.

6 5.7 In December 2006, a member of Mom's family confronted Respondent
7 and Mom about their personal relationship and told them to end it. Mom
8 admitted to family members, in front of Respondent, that she loved
9 Respondent. In February 2007, another family member confronted
10 Respondent and Mom about their personal relationship.

11 5.8 In March 2008, less than one year after Respondent terminated his
12 professional counseling relationship with Mom, Respondent met Mom for
13 lunch, picking her up in his car. When Father learned Mom was in
14 Respondent's car, Father confronted Mom on the phone. After this
15 incident, Mom and Father separated and then divorced.

16 6. Based on the facts set forth in Paragraph 5 above, the Idaho Board found that if
17 proven, Respondent's conduct violated multiple provisions of the laws and rules
18 governing the practice of professional counseling in Idaho, including, but not limited to:

19 6.1 Respondent failed to provide accurate disclosure information regarding his
20 practice at the beginning of his treatment of Client A;

21 6.2 Respondent engaged in a personal relationship and later romantic and/or
22 sexual relationship with a recent client, Mom.

23

1 6.3 Respondent continued to provide professional counseling services to
2 Client A while he was in a personal relationship and later romantic and/or
3 sexual relationship with Mom without obtaining consent from Client A;
4 and

5 6.4 Respondent engaged in multiple, inappropriate professional counseling
6 relationships with Client A and Mom.

7 7. To settle the pending disciplinary matter, Respondent agreed to the imposition of
8 the following discipline by the Idaho Board:

9 7.1 Respondent surrendered his Idaho counseling license;

10 7.2 Respondent surrendered all license renewal and reinstatement rights under
11 Idaho law;

12 7.3 Respondent paid \$8,000.00 in investigative costs and attorney fees; and

13 7.4 Respondent agreed not to apply to the Idaho Board as a new applicant at
14 any time in the future for any license to practice under Idaho law.

15 8. The Notice was served on Respondent on December 14, 2009 by certified and
16 regular mail. An Amended Notice was served on Respondent on March 1, 2010.

17 9. On December 28, 2009, Respondent requested a hearing, which was ultimately set
18 for June 22-23, 2010. By email dated June 17, 2010, Respondent withdrew his request
19 for a hearing. Both the Notice and Amended Notice specifically provided that if
20 Respondent later withdrew his request for a hearing, the Board may issue a Final Order
21 by Default and refuse to renew his license.

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1 CONCLUSIONS OF LAW

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3 1. Respondent is in default.

4 2. Respondent's license renewal application is denied because of the disciplinary
5 action taken against him by the Idaho Board in violation of ORS 675.745(1)(h).

6 3. The Board is entitled to recover all costs associated with pursuing this disciplinary
7 matter under ORS 674.745(7).

8 OPINION.

9 The law is clear that the Board may refuse to renew any license if the licensee has been
10 disciplined in another state. ORS 675.745(1)(h). Respondent originally applied for licensure in
11 Oregon in 2008. At that time, he was able to truthfully assert that there was no disciplinary
12 action pending against him, so he received an Oregon LPC license. It wasn't until 2009, when
13 Respondent applied to renew his license, that the Board became aware of the pending action in
14 Idaho.

15 In investigating the matter, the Board learned that a complaint had been filed against
16 Respondent in Idaho alleging serious misconduct. Rather than proceed to hearing on all of the
17 charges against him, Respondent agreed to the imposition of stipulated discipline, which
18 included the relinquishment of his Idaho counseling license.

19 The Board takes its responsibility to protect the public seriously. By refusing to renew
20 Respondent's license once it learned of the serious misconduct committed in another state, the
21 Board sends a clear message that it will not allow a licensee to commit misconduct, relinquish
22 his license in another state and then expect to move to Oregon and be allowed to continue the
23 licensee's practice.

1 **FINAL ORDER**

2 **NOW THEREFORE**, the Board hereby **ORDERS** that:

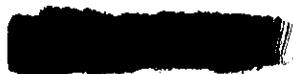
- 3 1. Respondent Lyle S. Bourcy's application to renew his license as a Professional
4 Counselor is denied; and
- 5 2. Respondent is **ASSESSED** the Board's costs associated with this action,
6 including the Board's attorney fees, in the amount of **\$16766.15**, pursuant to ORS
7 675.745(7).

8

9 **DATED AND ISSUED** this 13th day of August, 2010.

10

11 Oregon Board of Licensed Professional
12 Counselors and Therapists

13 By 
14 Ryan Melton, Chair
15 

16 **NOTICE OF RIGHT TO APPEAL**

17 You are entitled to judicial review of this Final Order by Default. You may request
18 judicial review by filing a petition for review with the Oregon Court of Appeals in Salem,
19 Oregon within sixty (60) days from service of this Final Order. Judicial review is pursuant to the
20 provisions of ORS 183.482.

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of August, 2010, I served the foregoing **Final Order by Default Denying License Renewal** by depositing a true copy of the same in a sealed envelope sent by regular US mail, addressed as follows:

Lyle S. Bourcy
1159 SW 4th Avenue
Ontario, Oregon 97914



Brian Johnson, Investigator
Board of Licensed Professional Counselors
and Therapists

cc: Kelly M. Gabliks, DOJ
Department of Justice
General Counsel/Business Activities Section
1162 Court Street NE
Salem OR 97310