

**BEFORE THE NEW MEXICO COUNSELING & THERAPY PRACTICE BOARD
FOR THE STATE OF NEW MEXICO**

IN THE MATTER OF:

**CARLOS BAKI,
License No. CMH0123191**

**Case No. CT-17-35-COM
Case No. CT-17-40-COM**

Respondent.

SETTLEMENT AGREEMENT

WHEREAS Carlos Baki (Respondent") is licensed in New Mexico under the New Mexico Counseling and Therapy Act ("the Act"), and is subject to the jurisdiction of the New Mexico Counseling and Therapy Practice Board ("Board"); and

WHEREAS the State of New Mexico Counseling and Therapy Practice Board ("Board") received a complaint alleging that Carlos Baki ("Respondent") violated the Act; and

WHEREAS the Board found sufficient evidence to refer the matter to its administrative prosecutor and request that a Notice of Contemplated Action ("NCA") be issued against Respondent; and

WHEREAS a NCA was issued pursuant to the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 through -34 ("ULA"), which stated that the Board had sufficient evidence which, if not rebutted or satisfactorily explained, would justify the Board taking disciplinary action against Respondent up to and including license revocation; and

WHEREAS Respondent is willing to resolve this matter without the need for, and time and expense of, a formal hearing conducted; and

WHEREAS the Board's administrative prosecutor believes that this proposed Settlement Agreement (the "Agreement") is appropriate and in the best interest of the Board:

THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. **Jurisdiction.** Respondent is licensed under the Counseling and Therapy Practice Act, NMSA 1978, Section 61-9A-1 *et seq.* ("Act"), and is subject to the jurisdiction of the Board. The Board has jurisdiction over Respondent and the subject matter.
2. **Violations.** Respondent acknowledges that this disciplinary action is based on allegations of violations of:

§ 61-9A-26. License and registration; denial, suspension and revocation.

A. In accordance with the procedures established by the Uniform Licensing Act (61-1-1 to 61-1-31 NMSA 1978), the Board may deny, suspend or revoke any license or registration held or applied for under the Counseling and Therapy Practice Act (61-9A-1 to 61-9A-30 NMSA 1978), or take any other action provided for in the Uniform Licensing Act, upon grounds that the licensee, registrant or applicant:

- (4) is found guilty of unprofessional or unethical conduct;
- (6) has violated any provision of the Counseling and Therapy Practice Act or regulations adopted by the board;
- (7) is grossly negligent in practice as a professional counselor or therapist practitioner;
- (8) willfully or negligently divulges a professional confidence;
- (9) demonstrates marked incompetence in practice as a professional counselor or therapist practitioner;

16.27.18.18 NMAC. Responsibility to Clients.

D. A licensed or registered individual shall not enter into a sexual or other dual relationship with a client, as specified in Section 16.27.18.16 D of this code of ethics.

16.27.18.16 NMAC. Professional Competence, Conduct & Integrity.

B. A licensed or registered individual, when interacting with a client or former client to whom the counselor or therapist has at any time within the previous 60 months rendered counseling or therapy, shall not:

- (1) Engage in sexual intercourse, contact or other physical intimacies with the client; or
- (2) Enter into a financial or other potentially exploitive relationship with the client.

D. A licensed or registered individual shall not undertake or continue a professional relationship with a client when the counselor or therapist is impaired due to mental, emotional, physiological, or substance abuse conditions.

16.27.18.15 NMAC. Confidential Information.

Means information revealed by a client(s) or otherwise obtained by a counselor or therapist, within the therapeutic context. The information shall not be disclosed by the counselor or therapist without the informed written consent of the client(s). When the client is a corporation or organization, the confidential relationship is between the counselor or therapist and the corporation/organization and not between the counselor or therapist and the employee/individual. Information obtained from the employee by the counselor or therapist shall be available to the

organization unless such information was obtained in a separate therapeutic context which is subject to confidentiality requirements.

3. **Voluntary Agreement.** Respondent enters into this Agreement knowingly and voluntarily, without duress or coercion, and after a full opportunity to consult an attorney. Respondent understands that if he rejects this Agreement the Board will conduct a formal evidentiary hearing which could result in the Board imposing discipline that is more severe or less severe than the sanctions imposed herein.

4. **Board Approval.** This Agreement requires Board approval. If the Board rejects this Agreement, the Board may proceed with a full evidentiary hearing on a date scheduled by the Board in a subsequent notice. If the Board rejects this Agreement, the terms of this Agreement or statements made by Respondent in support of this Agreement shall not be used against Respondent in a subsequent hearing. The approval shall be effective the date this Agreement is signed by the Board or its designee.

5. **Waivers.** If this Agreement is accepted by the Board, Respondent agrees to waive any and all rights under the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 through -34, including but not limited to the right to a notice of hearing, an evidentiary hearing, the right to discovery, the right to present evidence, the right to call and cross examine witnesses, and the right to judicial review.

6. **Sanctions and Conditions.** Respondent agrees to the following disciplinary sanctions and conditions:

a. Respondent agrees that his license will be revoked, effective the date this Agreement is accepted by the Board, and over the following five years, he would complete the equivalent of six months, or twenty-four (24) sessions with a licensed therapist, psychologist, or social worker licensed in New Mexico, with whom he is not friends or related and with whom he has not worked in the past, during which time he would successfully address the *setting of effective boundaries with clients, including those to whom he is attracted* (emphasis added).

b. After the passage of five years, Respondent would be permitted to reapply for licensure with the Board with the condition that he present a letter from the licensed counselor, psychologist, or social worker who has provided the 24 sessions described above, stating that he has completed the 24 sessions as required, during which time he has successfully addressed the above issue in those sessions (stating the term and focus of those sessions), as part of his application. That letter could include a waiver of liability signed by the licensed professional who has provided the 24 sessions.

c. Such application would be considered and given its due by the Board, barring any intervening issues relevant to Respondent's ability to practice, as deemed by the Board, meanwhile, including but not limited to other, newer complaints filed with the Board or relevant criminal convictions, e.g., sexual harassment, battery while in a position of authority over the victim, etc.

7. **Release.** Respondent acknowledges that the Board has the statutory, administrative, and regulatory authority and thereby jurisdiction, to investigate and adjudicate allegations of professional misconduct committed by licensees. Upon execution of this Agreement, Respondent releases the Board from any and all claims arising out of the Board's decision to investigate the complaint, refer the matter for issuance of a Notice of Contemplated Action, and take the actions described herein.

8. **Reportable Discipline.** Respondent understands that this Agreement constitutes formal disciplinary action by the Board and that the Board will report the action to the applicable professional licensing national database, if any.

9. **Non-Compliance.** Respondent understands and agrees that failure to comply with the terms of this Agreement will result in further Board action. Any violation of this Agreement will result in the immediate, automatic filing of an administrative Notice of Non-Compliance by Board staff. Upon the filing of a Notice of Non-Compliance, the matter shall be scheduled for the next public meeting of the Board, at which time the Board shall hear from Board staff regarding the alleged non-compliance. Respondent shall have the opportunity to address the allegations or offer any other relevant argument or evidence regarding the reasons for non-compliance. Such argument or evidence may be provided in writing prior to the meeting or in person at the Board meeting. Any presentation regarding the Notice of Non-Compliance shall be limited to evidence surrounding Respondent's alleged failure to comply with the Agreement. Upon finding such violation occurred, the Board may suspend Respondent's license(s), provided that this suspension may only remain in effect until such time as the Respondent has complied with the terms of this agreement, or take other enforcement action as permitted by law. If Respondent's non-compliance constitute acts that are prohibited under the Board's statute or rules, the Board may also initiate a new disciplinary action and refer that matter for administrative prosecution.

10. **Public Record.** This Agreement and the original complaint are public records and may be provided for inspection if requested, pursuant to the New Mexico Inspection of Public Records Act ("IPRA"), NMSA 1978, Sections 14-2-1 to -12. Other data, communications, and information acquired by the Board relating to this matter shall be public as provided by the New Mexico Counseling and Therapy Practice Act. This document may be posted on the Board's website.

11. **Mailing Process.** Upon the Board Chairperson affixing his signature to the Order indicating the Board's approval of this Agreement, copies of both documents shall be mailed to Respondent by Certified Mail to Respondent's mailing address currently on record with the Board. Mailing shall fulfill the Board's obligation to notify Respondent of the Board's acceptance of the Agreement. The time limitations for Respondent's compliance with the requirements of this agreement shall commence five (5) days after said mailing by the Board as such date shall be deemed receipt by Respondent of this Agreement and the signed Order.

12. **Proceedings; Status.** This Agreement is a settlement of Board case number CT-17-35-COM and CT-17-40-COM only for the specific allegations contained therein. The Board reserves the right to initiate proceedings for any other violations of the Act and/or the Rules and Regulations adopted by the Board pursuant to the Act. Respondent understands and acknowledges that his

action in entering this Agreement is a final act not subject to reconsideration, judicial review, or appeal.

13. **Affirmative Statement.** Respondent affirmatively states that he has read this entire document and understands his responsibilities and duties in reference to settlement of this matter. Respondent knowingly, intentionally, intelligently, and voluntarily enters into and executes this Agreement and affirms that no representations have been made to him other than the terms and conditions expressly stated herein.

14. **Full Compliance and Final Disposition.** Upon Respondent's satisfactory completion of the terms of this agreement and successful reapplication to the Board, the case will be deemed closed for administrative purposes without the filing of an order or official vote of the Board. The Board will contemplate no further action against Respondent's license for the conduct made the subject matter of this Agreement. This matter will still constitute disciplinary action as provided herein for purposes of Respondent's record with the Board and the Board may consider this misconduct as evidence of a pattern of conduct in the event that similar or other misconduct is proven against Respondent in the future. Additionally, the Board may consider the fact that discipline was imposed through this Agreement and the accompanying Order as a factor in determining appropriate discipline should any further misconduct be proven against Respondent in the future.

I understand and have read this document and hereby agree to the terms of this Agreement freely and voluntarily. I understand that by entering into this Agreement I am giving up my rights under the Uniform Licensing Act, including my right to an evidentiary hearing on the merits of the alleged violations.

I understand that if the Board accepts this Agreement, I am required to comply with the terms stated herein, and that failure to comply with the Agreement may subject me to further discipline, including extended revocation of my licensure.



Carlos Baki, Respondent
License No. CMH0123191

8-25-2020
Date


Barry Klopfer, Respondent's Attorney
Counseling and Therapy Practice Board

8/25/2020
Date

ORDER

This document is not valid unless it is accepted by vote of the Board. Having come before the Board during a properly scheduled public meeting, with a quorum present and majority voting in the affirmative, this Agreement is:

 X ACCEPTED

IT IS SO ORDERED.

/s/Bentley Oliver
Bentley Oliver, Board Chair/Designee
Counseling and Therapy Practice Board

10/5/2020
Date