

STATE OF NORTH CAROLINA

BEFORE THE NORTH CAROLINA
MARRIAGE AND FAMILY THERAPY
LICENSURE BOARD

IN THE MATTER OF:

Roy Falgout

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)

FINAL DECISION

The North Carolina Marriage and Family Therapy Licensure Board (“Board”) heard this cause on Friday, August 14, 2009, meeting in public session, in accordance with Article 3A, chapter 150B, North Carolina General Statutes. Roy Falgout, (“Respondent”), was duly noticed for hearing but did not appear. Respondent’s Response to Complaint was presented to the Board as Board Exhibit No. 2 admitted into evidence and Respondent’s treatment records from sessions with S.D. were presented to the Board as Board Exhibit No. 3 and admitted into evidence. Copies of emails between S.D. and Respondent were admitted into evidence as Board Exhibit No. 4. Lisa Granberry Corbett, Assistant Attorney General, presented the case for the Board. The Board heard testimony from the witnesses: Respondent’s former client, who is identified throughout this Final Decision as S.D. , and Dennis Morgan, Board Investigator; the Board admitted Board Exhibits Nos. 1 through 10 into evidence. The Hearing Officer then closed the hearing. The Board deliberated in executive session and based on a review of the whole record made the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

Upon consideration of the record as a whole, the Board finds, based on substantial evidence admissible under N.C. Gen. Stat. § 150B-41, the following facts:

1. At all times relevant to the matters at issue in the Charge Letter dated April 30, 2009 sent to Respondent via certified mail, admitted into evidence as Board Exhibit No. 5, Respondent was a marriage and family therapist licensed by the Board.
2. Respondent was given proper notice of the hearing.
3. Respondent was hired by the witness S.D. and S.D.’s spouse to provide marital counseling in November 2003.
4. Thereafter, in 2004, S.D. became an individual therapy client of Respondent.
5. Respondent began a personal and sexual relationship with S.D. and continued this relationship with S.D. until 2007.

6. Respondent engaged in a personal and sexual relationship with S.D. while S.D. was a client of Respondent.
7. Respondent engaged in sexual intercourse with S.D. while S.D. was a client of Respondent.
8. Respondent continued to treat S.D., and recorded therapy notes for S.D.'s treatment and diagnoses while Respondent engaged in a personal and sexual relationship with S.D.
9. Respondent's clinical notes admitted into evidence indicate that S.D., during the time of Respondent's and S.D.'s personal and sexual relationship, was suffering from serious symptoms of emotional distress including feeling suicidal.
10. Respondent did not refer S.D. to another therapist.
11. Respondent has used his position of influence as a clinician to take advantage of and enter into an unethical personal and sexual relationship with a client.
12. The Board finds that Respondent has not complied with the terms of the previous consent order, dated November 8, 2007, entered into between Respondent and the Board after the Board had found probable cause to believe that Respondent had violated one provision of the Code of Ethics for Licensed Marriage and Family Therapists, in that respondent was alleged to have sent inappropriate personal emails to a client suggestive of a close personal relationship; Respondent failed to comply with the terms of the consent order in that he failed to send in a personal assessment which met the requirements for the personal assessment; the personal assessment sent in by Respondent was not accepted by the Board and Respondent has failed to send in any further personal assessments.

Based on the foregoing Findings of Fact, the Board makes the following:

CONCLUSIONS OF LAW

1. The Board has jurisdiction over the subject matter of this contested case and over the Respondent.
2. The Board concludes as a matter of law, based upon the above findings and in reliance on its own expertise, that Respondent has engaged in an unethical dual relationship with a client.
3. The Board concludes as a matter of law, based upon the above findings and in reliance on its own expertise, that Respondent has used his position of

influence as a clinician to take advantage of and enter into an unethical personal and sexual relationship with a client.

4. The Board concludes that Respondent has violated Standard 1.3 of the *American Association for Marriage and Family Therapy ("AAMFT") Code of Ethics (2001)*, by exploiting the trust and dependency of a client by entering into a close personal relationship with the client; this violation alone warrants the disciplinary action taken by the Board.
5. The Board concludes that Respondent has violated Standard 1.4 of the *AAMFT Code of Ethics (2001)*, by having sexual intercourse with a client; this violation alone warrants the disciplinary action taken by the Board.
6. The Board concludes that Respondent has violated Standard 3.4 of the *AAMFT Code of Ethics (2001)*, by providing services that created a conflict of interest; this violation alone warrants the disciplinary action taken by the Board.
7. A violation of any provision of the *AAMFT Code of Ethics (2001)*, which was adopted by the Board in 21 N.C.A.C. 31. 0609, constitutes grounds for the Board to revoke or suspend Respondent's license, pursuant to N.C. Gen. Stat. § 90-270.60(5).
8. The Board finds that Respondent has not complied with the terms of the previous consent order entered into to resolve a prior complaint against Respondent.

NOW, THEREFORE, the NORTH CAROLINA MARRIAGE AND FAMILY THERAPY LICENSURE BOARD hereby ORDERS:

- I. The license of the Respondent Roy Falgout is hereby REVOKED.
- II. Respondent shall immediately cease to engage in the practice of marriage and family therapy.
- III. In the event that Respondent has not terminated treatment with all of his clients, he shall immediately do so upon receipt of this Order.
- IV. Should any of Respondent's former clients contact Respondent at any point in time, Respondent shall refer such a client to another therapist and shall not engage in any other conversation with the former client.
- V. Respondent shall turn in his license to practice marriage and family therapy in North Carolina to the Board no later than fourteen days after he

receives a copy of this Order. He shall mail his license to: North Carolina Marriage and Family Therapy Board, P.O. Box 37669, Raleigh, N.C. 27627.

- VI. The Board shall maintain this Final Decision as a public record pursuant to N.C. Gen. Stat. § 132-1.

This the 29 day of October, 2009.



BY: _____
JON WINEK, Ph.D., LMFT
BOARD CHAIRPERSON

APPEAL

Pursuant to N.C. Gen. Stat. § 150B-45, any party wishing to appeal this Final Decision may commence their appeal by filing a Petition for Judicial Review in the Superior Court of Wake County or in the Superior Court of the county in which the party resides. The party seeking review must file the petition within 30 days after being served with a written copy of this Final Decision.

CERTIFICATE OF SERVICE

I, Wanda R. Nicholson, Executive Director of the North Carolina Marriage and Family Therapy Licensure Board, do hereby certify that I have this day served a copy of the foregoing FINAL DECISION upon the following by depositing a copy of the same in the United States mail, certified mail, return receipt requested, postage prepaid addressed as follows:

Mr. Roy Falgout
4915 J Box 218 Arendell
Morehead City, N.C. 28557

I do further certify that I have this day served a copy of the foregoing upon the following by depositing a copy of the same in the United States mail, first class postage paid, addressed as follows:

Lisa Granberry Corbett
Assistant Attorney General
N.C. Department of Justice
P.O. Box 629
Raleigh, N.C. 27602

This the 29 day of _____ October _____, 2009.

Wanda R. Nicholson
Executive Director
North Carolina Marriage and Family Therapy Licensure Board
P.O. Box 37669
Raleigh, N.C. 27627
(919) 772-6600