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PAUL E. ZELLERBACH
District Attorney
County of Riverside
3960 Orange Street, First Floor
Riverside, California 92501
Telephone: (951) 955-5400
Deborah A. Lucky
Supervising Deputy District Attorney
State Bar No. 175648

RECEIVED
SUPERIOR/MUNICIPAL COURT
RIVERSIDE COUNTY
14 SEP 24 AM 11:04

Arraign: September 26, 2014

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE
SEP 24 2014
R. Carrillo

SJR
SEP 25 2014
R

ORIGINAL

SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE
(Riverside)

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

v.

BRENDA MARIE REES

Defendant.

NO. RIF1400122

INFORMATION

AGENCY#:

DAR2009342004/RDA

SPS

COUNT 1

The District Attorney of the County of Riverside hereby accuses BRENDA MARIE REES of a violation of Penal Code section 504, a felony, in that on or about January 2003, through and including December 2008, in the County of Riverside, State of California, she did wilfully and unlawfully, being an officer of this state and any county and city and municipal corporation and subdivision thereof, and a deputy, clerk and servant of that officer, and an officer, director, trustee, clerk servant and agent of an association, society and corporation fraudulently appropriate to a use and purpose not in the due and lawful execution of that person's trust property in her possession and under her control by virtue of that trust and secrete it with a fraudulent intent to appropriate it to that use and purchase.

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COUNT 2

For a further and separate cause of action, being a different offense from but connected in its commission with the charge set forth in count 1 hereof, the District Attorney of the County of Riverside hereby accuses BRENDA MARIE REES of a violation of Penal Code section 504, a felony, in that on or about January 2003, through and including December 2008, in the County of Riverside, State of California, she did wilfully and unlawfully, being an officer of this state and any county and city and municipal corporation and subdivision thereof, and a deputy, clerk and servant of that officer, and an officer, director, trustee, clerk servant and agent of an association, society and corporation fraudulently appropriate to a use and purpose not in the due and lawful execution of that person's trust property in her possession and under her control by virtue of that trust and secrete it with a fraudulent intent to appropriate it to that use and purchase.

COUNT 3

For a further and separate cause of action, being a different offense from but connected in its commission with the charges set forth in counts 1 and 2 hereof, the District Attorney of the County of Riverside hereby accuses BRENDA MARIE REES of a violation of Penal Code section 504, a felony, in that on or about January 2003, through and including December 2008, in the County of Riverside, State of California, she did wilfully and unlawfully, being an officer of this state and any county and city and municipal corporation and subdivision thereof, and a deputy, clerk and servant of that officer, and an officer, director, trustee, clerk servant and agent of an association, society and corporation fraudulently appropriate to a use and purpose not in the due and lawful execution of that person's trust property in her possession and under her control by virtue of that trust and secrete it with a fraudulent intent to appropriate it to that use and purchase.

COUNT 4

For a further and separate cause of action, being a different offense from but connected in its commission with the charges set forth in counts 1 through 3 hereof, the District Attorney of the County of Riverside hereby accuses BRENDA MARIE REES of a violation of Penal Code section 504, a felony, in that on or about January 2003, through and including December 2008, in the County of Riverside, State of California, she did wilfully and unlawfully, being an officer of this state and any county and city and municipal corporation and subdivision thereof, and a deputy, clerk and servant of that officer, and an officer, director, trustee, clerk servant and agent of an association, society and corporation fraudulently appropriate to a use and purpose not in the due and lawful execution of that person's trust property in her possession and under her control by virtue of that trust and secrete it with a fraudulent intent to appropriate it to that use and purchase.

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COUNT 5

For a further and separate cause of action, being a different offense from but connected in its commission with the charges set forth in counts 1 through 4 hereof, the District Attorney of the County of Riverside hereby accuses BRENDA MARIE REES of a violation of Penal Code section 504, a felony, in that on or about January 1, 200 January 2003, through and including December 20083, in the County of Riverside, State of California, she did wilfully and unlawfully, being an officer of this state and any county and city and municipal corporation and subdivision thereof, and a deputy, clerk and servant of that officer, and an officer, director, trustee, clerk servant and agent of an association, society and corporation fraudulently appropriate to a use and purpose not in the due and lawful execution of that person's trust property in her possession and under her control by virtue of that trust and secrete it with a fraudulent intent to appropriate it to that use and purchase.

COUNT 6

For a further and separate cause of action, being a different offense from but connected in its commission with the charges set forth in counts 1 through 5 hereof, the District Attorney of the County of Riverside hereby accuses BRENDA MARIE REES of a violation of Penal Code section 504, a felony, in that on or about January 2003, through and including December 2008, in the County of Riverside, State of California, she did wilfully and unlawfully, being an officer of this state and any county and city and municipal corporation and subdivision thereof, and a deputy, clerk and servant of that officer, and an officer, director, trustee, clerk servant and agent of an association, society and corporation fraudulently appropriate to a use and purpose not in the due and lawful execution of that person's trust property in her possession and under her control by virtue of that trust and secrete it with a fraudulent intent to appropriate it to that use and purchase.

COUNT 7

For a further and separate cause of action, being a different offense from but connected in its commission with the charges set forth in counts 1 through 6 hereof, the District Attorney of the County of Riverside hereby accuses BRENDA MARIE REES of a violation of Penal Code section 504, a felony, in that on or about January 2003, through and including December 2008, in the County of Riverside, State of California, she did wilfully and unlawfully, being an officer of this state and any county and city and municipal corporation and subdivision thereof, and a deputy, clerk and servant of that officer, and an officer, director, trustee, clerk servant and agent of an association, society and corporation fraudulently appropriate to a use and purpose not in the due and lawful execution of that person's trust property in her possession and under her control by virtue of that trust and secrete it with a fraudulent intent to appropriate it to that use and purchase.

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COUNT 8

For a further and separate cause of action, being a different offense from but connected in its commission with the charges set forth in counts 1 through 7 hereof, the District Attorney of the County of Riverside hereby accuses BRENDA MARIE REES of a violation of Penal Code section 504, a felony, in that on or about January 2003, through and including December 2008, in the County of Riverside, State of California, she did wilfully and unlawfully, being an officer of this state and any county and city and municipal corporation and subdivision thereof, and a deputy, clerk and servant of that officer, and an officer, director, trustee, clerk servant and agent of an association, society and corporation fraudulently appropriate to a use and purpose not in the due and lawful execution of that person's trust property in her possession and under her control by virtue of that trust and secrete it with a fraudulent intent to appropriate it to that use and purchase.

COUNT 9

For a further and separate cause of action, being a different offense from but connected in its commission with the charges set forth in counts 1 through 8 hereof, the District Attorney of the County of Riverside hereby accuses BRENDA MARIE REES of a violation of Penal Code section 504, a felony, in that on or about January 2003, through and including December 2008, in the County of Riverside, State of California, she did wilfully and unlawfully, being an officer of this state and any county and city and municipal corporation and subdivision thereof, and a deputy, clerk and servant of that officer, and an officer, director, trustee, clerk servant and agent of an association, society and corporation fraudulently appropriate to a use and purpose not in the due and lawful execution of that person's trust property in her possession and under her control by virtue of that trust and secrete it with a fraudulent intent to appropriate it to that use and purchase.

COUNT 10

For a further and separate cause of action, being a different offense from but connected in its commission with the charges set forth in counts 1 through 9 hereof, the District Attorney of the County of Riverside hereby accuses BRENDA MARIE REES of a violation of Penal Code section 504, a felony, in that on or about January 2003, through and including December 2008, in the County of Riverside, State of California, she did wilfully and unlawfully, being an officer of this state and any county and city and municipal corporation and subdivision thereof, and a deputy, clerk and servant of that officer, and an officer, director, trustee, clerk servant and agent of an association, society and corporation fraudulently appropriate to a use and purpose not in the due and lawful execution of that person's trust property in her possession and under her control by virtue of that trust and secrete it with a fraudulent intent to appropriate it to that use and purchase.

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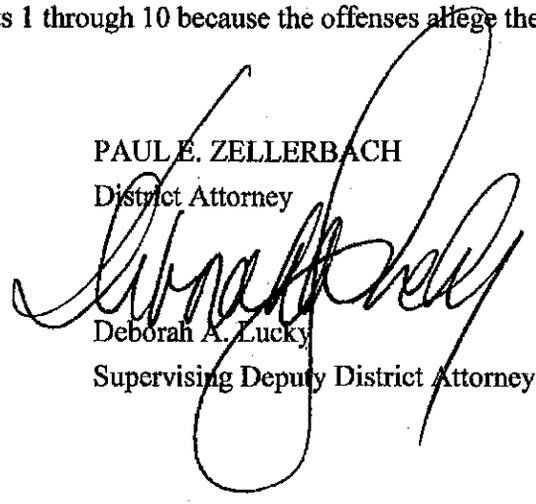
The District Attorney of the County of Riverside further charges that in the commission and attempted commission of the above offense the said defendant, BRENDA MARIE REES, with the intent so to do, took, damaged and destroyed property of a value exceeding \$200,000, within the meaning of Penal Code section 12022.6, subdivision (a), subsection (2).

The District Attorney of the County of Riverside further charges that the said defendant, BRENDA MARIE REES, committed two or more related felonies, a material element of which was fraud or embezzlement, which involved a pattern of related felony conduct, and this pattern of related felony conduct involved the taking of more than five hundred thousand dollars (\$500,000.00) within the meaning of Penal Code section 186.11, subdivision (a), subsection (2).

ZAMORA ALLEGATION

Pursuant to Penal Code section 799, there is no statutory limitation of time to prosecute the offenses charged in Counts 1 through 10 because the offenses allege the embezzlement of public money.

PAUL E. ZELLERBACH
District Attorney



Deborah A. Lucky
Supervising Deputy District Attorney

DAL:jsg

APR 08 2015

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
FELONY PLEA FORM

[Signature]

People v. Brenda Rees

Case Number RIF 1400122

MFC

APR 09 2015

A. ADVISEMENT OF RIGHTS:

- Bm R 1. I have the right to a speedy and public trial by a judge or jury.
- Bm R 2. At my trial, I have the right to face and cross-examine any witnesses against me.
- Bm R 3. I have the right to ask the court to compel witnesses to attend my trial at no expense to me, and to present evidence in my defense.
- Bm R 4. I have the right against self-incrimination. I cannot be forced to testify against myself, but I also have the right to testify in my own defense if I choose to do so.
- Bm R 5. I have the right to be represented by a lawyer throughout my trial. If I cannot afford one, the court will appoint one to represent me at no cost to me.

B. CONSEQUENCES OF PLEA (1 through 5 apply to everyone):

- Bm R 1. As a convicted felon, I will not be able to own or possess any firearm. I will be ordered to pay restitution to the victim(s) if the victim(s) suffered economic harm. I agree that the amount of victim restitution is _____. If the parties do not agree, the probation department will determine the amount. If I disagree with the amount, I must promptly request a hearing.
- Bm R 2. Charges and/or enhancements may have been dismissed as part of this negotiated disposition with the District Attorney's Office. I agree that I will be ordered to pay restitution to the victim(s) of the dismissed charges and/or enhancements if the victim(s) suffered economic harm.
- Bm R 3. I will be ordered to pay a restitution fine of at least \$240 and not more than \$10,000. There are several other fines and fees that will be imposed as a result of this guilty plea.
- Bm R 4. If I am not a citizen of the United States, I understand that this conviction may have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.
- Bm R 5. If I receive a state prison term, I will be placed on parole or local community supervision after completing the term. Parole or local community supervision will be for the term specified by law. Generally, parole is for up to five years and local community supervision is for up to three years. If my term of imprisonment is life, and I am ever granted parole, it may be for life. If I violate any of the terms of parole, I could be returned to state prison for up to one year per violation. If I violate any of the terms of local community supervision, I could be incarcerated in county jail for up to 180 days per violation.
- Bm R 6. If I am sentenced to county jail, a portion of my term may be suspended and, upon release from jail, I may be placed on mandatory supervision. If I violate any of the terms and conditions of my mandatory supervision, I could be returned to county jail for up to the remainder of my suspended jail term.
- Bm R 7. I will be required to give a DNA sample.
- 8. My driving privileges will be suspended or revoked by the Department of Motor Vehicles.
- 9. I understand that because I am pleading guilty to a qualifying offense, I will be ordered to register with law enforcement as a(n) _____ and that if I fail to register or to keep my registration current for any reason, new criminal charges may be filed against me. I understand that registration as a sex offender is a life long requirement.
- 10. I will be required to undergo AIDS testing.
- 11. Being under the influence of alcohol or drugs, or both, impairs your ability to safely operate a motor vehicle. Therefore, it is extremely dangerous to human life to drive while under the influence of alcohol or drugs, or both. If I drive while under the influence of alcohol or drugs, or both, and as a result of that driving, someone is killed, I can be charged with murder.
- 12. Other _____

C. DEFENDANT'S STATEMENT:

- Bm R 1. All the promises made to me are written on this form, or stated in open court.
- Bm R 2. No one has made any threats to me or anyone close to me, or placed any pressure of any kind on me in order to make me plead guilty.

- BMR 3. I understand that if I violate any of my probation terms, I could be sentenced to the maximum custody term possible under these charges as set forth under "Plea Agreement", Item 2.
- BMR 4. I have had adequate time to discuss with my attorney (1) my constitutional rights, (2) the consequences of any guilty plea, and (3) any defenses I may have to the charges against me.
- BMR 5. As part of this plea, I (circle one) do / do not waive any right to appeal that I may have.
- BMR 6. Factual Basis: I agree that I did the things that are stated in the charges that I am admitting.

D. PLEA AGREEMENT:

- 1. I will enter a guilty plea to the following charges and enhancements:
Ct 1 PC 504, Ct 2 PC 504, Ct 3 PC 504, Ct 4 PC 504, Ct 5 PC 504,
Ct 6 PC 504, Ct 7 PC 504, Ct 8 PC 504, Ct 9 PC 504, Ct 10 PC 504
 The Prosecutor will dismiss any charges and enhancements that I do not admit. PL 12022-6(a)(2)
- 2. The maximum possible custody commitment for the admitted charges and enhancements is: PL 186.11(a)(2)
- 3. My guilty pleas are conditional on receiving the following considerations as to sentence: admits Zamora
 - a) Formal probation will (circle one) be 1) denied; 2) granted; 3) decided by the court. If granted, the length of formal probation may be up to five years. If probation is granted, a suspended state prison sentence or felony county jail term (circle one) will/will not be imposed. A suspended felony county jail term may include a period of mandatory supervision for up to the remainder of the suspended jail term. The following legal restrictions apply to a decision to grant probation in this case:
 - b) The custody term **will be** _____ (stip)
 The custody term shall not be **more** than _____ (top)
 The custody term shall not be **less** than _____ (floor)
 - c) Fines: C-12-15
 - d) Other: Sentencing on _____ referred for a R&S.
 - e) Credit for time served will be _____ days actual; _____ days 4019 2933; _____ total.

E. SIGNATURES

District Attorney: The above is a correct statement of the Plea Agreement between defense and prosecution.

to the court

 Date Print Name Sign Name

Defendant: I have read and understand this entire document, I waive and give up all of the rights that I have initiated. I accept this Plea Agreement.

4/8/15 BRENDA M. REES Brenda M. Rees

 Date Print Name Sign Name

Defense Attorney: I am the attorney for the defendant. I am satisfied that (1) the defendant understands his/her constitutional rights and understand that a guilty plea would be a waiver of these rights; (2) the defendant has had an adequate opportunity to discuss his/her case with me, including any defenses he/she may have to the charges; and (3) the defendant understands the consequences of his/her guilty plea. I join in the decision of the defendant to enter a guilty plea.

4/8/15 William Domercq WD

 Date Print Name Sign Name

Interpreter: Having been duly sworn, I have translated this form to the defendant in the _____ language. The defendant has stated that he/she fully understood the contents of the form prior to signing.

 Date Print Name Sign Name

FELONY ABSTRACT OF JUDGMENT—DETERMINATE
 (NOT VALID WITHOUT COMPLETED PAGE TWO OF CR-290 ATTACHED)

CR-290

BMV
 JUN 29 2015
 8

SUPERIOR COURT OF CALIFORNIA, COUNTY OF: RIVERSIDE		<div style="font-size: 24px; font-weight: bold; margin-bottom: 5px;">FILED</div> SUPERIOR COURT OF CALIFORNIA COUNTY OF RIVERSIDE <div style="font-size: 18px; font-weight: bold; margin-bottom: 5px;">JUN 29 2015</div>		
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: BRENDA MARIE REES	DOB: 09/05/1949			RIF1400122 -A
AKA:				-B
CII NO.: H09316612				-C
BOOKING NO.:	<input type="checkbox"/> NOT PRESENT		-D	
FELONY ABSTRACT OF JUDGMENT <input checked="" type="checkbox"/> PRISON COMMITMENT <input type="checkbox"/> COUNTY JAIL COMMITMENT <input type="checkbox"/> AMENDED ABSTRACT				
DATE OF HEARING 06/26/2015	DEPT. NO. 63	JUDGE HELIOS J. HERNANDEZ		
CLERK C. YORBA	REPORTER D. WAGNER	PROBATION NO. OR PROBATION OFFICER	<input type="checkbox"/> IMMEDIATE SENTENCING	
COUNSEL FOR PEOPLE AMY BARAJAS	COUNSEL FOR DEFENDANT PVT-DAVID PHILIPS		<input type="checkbox"/> APPOINTED	

1. Defendant was convicted of the commission of the following felonies:

Additional counts are listed on attachment
 1 (number of pages attached)

COUNT	CODE	SECTION NO.	CRIME	YEAR CRIME COMMITTED	DATE OF CONVICTION (MO./DATE/YR.)	CONVICTED BY			TERMS (L, M, U)	CONCURRENT	1/3 CONSECUTIVE	CONSECUTIVE FULL TERM	INCOMPLETE SENTENCE (REFER TO ITEM 5)	664 STAY	SERIOUS FELONY	VOLUNTARY FELONY	PRINCIPAL OR CONSECUTIVE TIME IMPOSED		
						JURY	COURT	PLEA									YRS.	MOS.	
1	PC	504	EMBEZZLE PROPERTY	08	04 / 08 / 15			X	L									1	4
2	PC	504	EMBEZZLE PROPERTY	08	04 / 08 / 15			X	L	X								(1)	(4)
3	PC	504	EMBEZZLE PROPERTY	08	04 / 08 / 15			X	L	X								(1)	(4)
4	PC	504	EMBEZZLE PROPERTY	08	04 / 08 / 15			X	L	X								(1)	(4)
5	PC	504	EMBEZZLE PROPERTY	08	04 / 08 / 15			X	L	X								(1)	(4)
6	PC	504	EMBEZZLE PROPERTY	08	04 / 08 / 15			X	L	X								(1)	(4)

2. ENHANCEMENTS charged and found to be true TIED TO SPECIFIC COUNTS (mainly in the PC 12022 series). List each count enhancement horizontally. Enter time imposed, "S" for stayed, or "PS" for punishment struck. DO NOT LIST ENHANCEMENTS FULLY STRICKEN by the court.

COUNT	ENHANCEMENT	TIME IMPOSED, "S," or "PS"	ENHANCEMENT	TIME IMPOSED, "S," or "PS"	ENHANCEMENT	TIME IMPOSED, "S," or "PS"	TOTAL
10	PC 186.11(A)(2)	2	PC 12022.6(A)(2)	(2)			2

3. ENHANCEMENTS charged and found to be true for PRIOR CONVICTIONS OR PRISON TERMS (mainly in the PC 667 series). List all enhancements horizontally. Enter time imposed, "S" for stayed, or "PS" for punishment struck. DO NOT LIST ENHANCEMENTS FULLY STRICKEN by the court.

ENHANCEMENT	TIME IMPOSED, "S," or "PS"	ENHANCEMENT	TIME IMPOSED, "S," or "PS"	ENHANCEMENT	TIME IMPOSED, "S," or "PS"	TOTAL

4. Defendant sentenced to county jail per 1170(h)(1) or (2)

- to prison per 1170(a), 1170.1(a) or 1170(h)(3) due to current or prior serious or violent felony PC 290 or PC 186.11 enhancement
 per PC 667(b)-(i) or PC 1170.12 (strike prior)
 per PC 1170(a)(3). Preconfinement credits equal or exceed time imposed. Defendant ordered to report to local parole or probation office.

5. INCOMPLETE SENTENCE(S) CONSECUTIVE

COUNTY	CASE NUMBER

6. TOTAL TIME ON ATTACHED PAGES:

7. Additional indeterminate term (see CR-292).

8. TOTAL TIME: 3 4

Attachments may be used but must be referred to in this document.

9. FINANCIAL OBLIGATIONS (including any applicable penalty assessments):

a. Restitution Fines:

Case A: \$ 300.00 per PC 1202.4(b) (forthwith per PC 2085.5 if prison commitment) \$ 300.00 per PC 1202.45 suspended unless parole is revoked
 \$ _____ per PC 1202.44 is now due, probation having been revoked.
 Case B: \$ _____ per PC 1202.4(b) (forthwith per PC 2085.5 if prison commitment) \$ _____ per PC 1202.45 suspended unless parole is revoked
 \$ _____ per PC 1202.44 is now due, probation having been revoked.
 Case C: \$ _____ per PC 1202.4(b) (forthwith per PC 2085.5 if prison commitment) \$ _____ per PC 1202.45 suspended unless parole is revoked
 \$ _____ per PC 1202.44 is now due, probation having been revoked.
 Case D: \$ _____ per PC 1202.4(b) (forthwith per PC 2085.5 if prison commitment) \$ _____ per PC 1202.45 suspended unless parole is revoked
 \$ _____ per PC 1202.44 is now due, probation having been revoked.

b. Restitution per 1202.4(f):

Case A: \$ _____ Amount to be determined to victim(s)* Restitution Fund
 Case B: \$ _____ Amount to be determined to victim(s)* Restitution Fund
 Case C: \$ _____ Amount to be determined to victim(s)* Restitution Fund
 Case D: \$ _____ Amount to be determined to victim(s)* Restitution Fund

* Victim names(s), if known, and amount breakdown in item 11, below * Victim names(s) in probation officer's report.

c. Fine(s):

Case A: \$ _____ per PC 1202.5. \$ _____ per VC 23550 or _____ days county jail prison in lieu of fine concurrent consecutive
 includes: \$ _____ Lab Fee per HS 11372.5(a) \$ _____ Drug Program Fee per HS 11372.7(a) for each qualifying offense
 Case B: \$ _____ per PC 1202.5. \$ _____ per VC 23550 or _____ days county jail prison in lieu of fine concurrent consecutive
 includes: \$ _____ Lab Fee per HS 11372.5(a) \$ _____ Drug Program Fee per HS 11372.7(a) for each qualifying offense
 Case C: \$ _____ per PC 1202.5. \$ _____ per VC 23550 or _____ days county jail prison in lieu of fine concurrent consecutive
 includes: \$ _____ Lab Fee per HS 11372.5(a) \$ _____ Drug Program Fee per HS 11372.7(a) for each qualifying offense
 Case D: \$ _____ per PC 1202.5. \$ _____ per VC 23550 or _____ days county jail prison in lieu of fine concurrent consecutive
 includes: \$ _____ Lab Fee per HS 11372.5(a) \$ _____ Drug Program Fee per HS 11372.7(a) for each qualifying offense

d. Court operation assessment: \$ 400.00 per PC 1465.8 e. Conviction Assessment: \$ 300.00 per GC 70373 f. Other: \$ _____ per (specify): _____

10. TESTING Compliance with PC 296 verified AIDS pursuant to PC 1202.1 other (specify): _____

11. REGISTRATION REQUIREMENTS: per (specify code section): _____

12. MANDATORY SUPERVISION: Execution of a portion of the defendant's sentence is suspended and deemed a period of mandatory supervision under Penal Code section 1170(h)(5)(B) as follows (specify total sentence, portion suspended, and amount to be served forthwith):

Total: _____ Suspended: _____ Served forthwith: _____

13. Other orders (specify):

Pay booking fees of \$425.82; Payable to Division of Adult Institutions (GC 29550)

14. IMMEDIATE SENTENCING:

Probation to prepare and submit post-sentence report to CDCR per PC 1203c.
 Defendant's race/national origin: Black

15. EXECUTION OF SENTENCING IMPOSED

- a. at initial sentencing hearing
- b. at resentencing per decision on appeal
- c. after revocation of probation
- d. at resentencing per recall of commitment (PC 1170(d).)
- e. Other (specify): _____

16. CREDIT FOR TIME SERVED

CASE	TOTAL CREDITS	ACTUAL	LOCAL CONDUCT
A	120	60	<input type="checkbox"/> 2933 <input type="checkbox"/> 2933.1 <input checked="" type="checkbox"/> 4019
B			<input type="checkbox"/> 2933 <input type="checkbox"/> 2933.1 <input type="checkbox"/> 4019
C			<input type="checkbox"/> 2933 <input type="checkbox"/> 2933.1 <input type="checkbox"/> 4019
D			<input type="checkbox"/> 2933 <input type="checkbox"/> 2933.1 <input type="checkbox"/> 4019
Date Sentenced Pronounced:		Time Served in State Institution:	
06/26/15		<input type="checkbox"/> DMH <input type="checkbox"/> CDC <input type="checkbox"/> CRC	

17. The defendant is remanded to the custody of the sheriff forthwith after 48 hours excluding Saturdays, Sundays, and holidays.

To be delivered to the reception center designated by the director of the California Department of Corrections and Rehabilitation.
 county jail other (specify): CHOWCHILLA

CLERK OF THE COURT

I hereby certify the foregoing to be a correct abstract of the judgment made in this action.

DEPUTY'S SIGNATURE: _____ DATE: 06/29/2015

SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

Abstract of Judgment - Prison Commitment
Attachment Page - Further Orders

Case Number: RIF1400122
Defendant: BRENDA MARIE REES

RESTITUTION ORDERS:

- Any disputes as to amount to be resolved in court hearing. Enhanced Collection Division to forward findings to Div. of Adult Institutions. [TZC3A]
- Pay _____ restitution [victim] in amount determined by Probation, individual/collectively (1202.4 (f) PC; Div Adult Inst to collect (2085.5 PC). [TZC3]
- Victim Restitution to be paid to court as directed by Division of Adult Institutions. [VRAP]
- Court reserves jurisdiction to set victim restitution. [CRJVR]
- Defendant ordered to complete and return a Financial Disclosure form to the Court on or before _____ or within 5 days of release. [TXT4]
- Stay of your obligation to pay probation revocation restitution fine of _____ is dissolved (PC 12022.44). Payable through Division of Adult Institution [TZF]

CONCURRENT/CONSECUTIVE ORDERS:

- Case to run _____ with any _____ [CRCA]
- Count _____ to run concurrent to Case _____ from _____ County. [CCCC]
- Count _____ to run consecutive to Case _____ from _____ County. [CCSCC]

OTHER ORDERS:

- Submit to HIV/AIDS testing by Division of Adult Institutions; Forward results to court for distribution (PC 1202.1/PC 1202(6)). [TZA2]
- Prior to Division of Adult Institution release, submit to HIV/AIDS testing by RSO medical staff, forward results to court for distribution. (PC 1202.1/PC 1202.6) [TZA4 / TZA4A]
- Court recommends placement pursuant to the Pregnant and Parenting Womens's Alternative Sentencing Program Act. (PC 1174.4(d)). [PPPWAS]
- Sheriff is directed to transport defendant to the Family Foundations Program in (SF - Santa Fe Springs, SD - San Diego, or F - Fresno). [SDTFFP]
- CDCR to calculate both local conduct credits for time spent in local custody prior to transport to CDCR after sentencing on _____, and [PRSCD]
- Credit for Time Served: From arrest date to original sentencing date _____, _____ actual days plus _____ local conduct for a total of _____ days. [PRSCTS]
- Submit necessary thumb and palm prints, blood and saliva specimens to Division of Adult Institutions (PC 296(a)). [TZA3]

SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

Abstract of Judgment - Prison Commitment
Attachment Page - Further Orders

Case Number: RIF1400122
Defendant: BRENDA MARIE REES

OTHER ORDERS (CONTINUED):

- From original sentencing date to today's date _____, _____ actual days.
Total _____ actual days, plus _____ local conduct, equals _____
days credit. [PRSPSC]
- Sheriff to Deliver Defendant to (D.J.J) Division of Juvenile Justice upon receipt of acceptance notification. [SDDD]
- Pay fine in the amount of _____ pursuant to Section 290.3 PC; payable to Division of Adult Institutions. [TZB3]
- Pay fine of _____; Division of Adult Institutions to deposit in Clandestine Drug Lab cleanup account(H&S 11379.6(a)/H&S 11379.6(d)). [TZB6]
- Pay fine in the amount of _____ pursuant to Section 264(b) PC; payable to the Division of Adult Institutions. [TZB7]
- Pay fine of _____; Payable to Division of Adult Institutions (PC 288(e)). [TZB8]
- Defendant prohibited from visitation with the child victim(s), DOB: _____. Division of Adult Institutions notified (PC 1202.05) [TZM]
- Defendant to participate in a counseling or educational program having a substance abuse component through the Div of Adult Institutions (PC 1203.096) [TZP]
- Pay booking fees of **\$425.82**; Payable to Division of Adult Institutions (GC 29550) [TZV1]



State of California—Health and Human Services Agency
Department of Health Care Services



EDMUND G. BROWN JR.
GOVERNOR

MAR 20 2018

Brenda Marie Rees
12016 Vista De Cerros Drive
Moreno Valley, CA 92555

**Re: Licensed Clinical Social Worker (LCSW)
License No. 9548, Provider No. 1760536874**

Dear Ms. Rees:

The Deputy Director and Chief Counsel of the State Department of Health Care Services (Department) has been notified by the Board of Behavioral Sciences (Board) that your LCSW license has been revoked; effective September 10, 2017.

As a provider of health care services (Welf. & Inst. Code § 14123, 42 CFR §§ 1000.10 and 1000.30 (2001); see also 45 CFR 160.103 (2013)), you were granted certain permissions to receive payment from the Medi-Cal program by operation of law with or without applying for enrollment. Pursuant to Welfare and Institutions Code section 14043.6, the Department is required to automatically suspend these permissions, which means that you are precluded from being eligible to receive payment from the Medi-Cal program directly or indirectly. This requirement applies to any individual or entity that has a license, certificate, or other approval to provide health care which is revoked or suspended by a federal or state licensing, certification, or approval authority, has otherwise lost that license, certificate, or approval, or has surrendered that license, certificate or approval while a disciplinary hearing on that license, certificate, or approval was pending. This suspension is non-discretionary, and shall be effective on the date that the license, certificate, or approval was revoked, lost, or surrendered.

In addition, the Department has been notified of your April 8, 2015, conviction in the Riverside County Superior Court (*People v. Brenda Marie Rees*, No. RIF1400122) for violation of 10 counts of Penal Code section 504 with an enhancements of Penal Code sections 12022.6, subdivision (a)(2) and 186.11, subdivision (a)(2). This is a conviction involving fraud and that has been determined by the Board to be substantially related to the qualifications, functions, or duties of a provider of service. Pursuant to Welfare and Institutions Code section 14123, subdivision (a), the Director is required to automatically suspend these permissions in certain cases, which means that the affected individual or entity is precluded from being eligible to receive payment from the Medi-Cal program.

Brenda Marie Rees

Page 2

MAR 20 2018

directly or indirectly. This requirement applies to anyone who provides health services whenever that person is convicted of any felony or any misdemeanor involving fraud, abuse of the Medi-Cal program or any patient, or otherwise substantially related to the qualifications, functions, or duties of a provider of service. (See 42 C.F.R. § 1001.201(a)(2); Welf. & Inst. Code, § 14123.25.)

Therefore, on behalf of the Director of the Department, you are hereby notified that you are prohibited from billing for or receiving payment from the Medi-Cal program for an indefinite period of time, effective September 10, 2017. Your name will be posted on the "Medi-Cal Suspended and Ineligible Provider List," available on the Internet. During the period of your suspension, no person or entity, including an employer, may submit any claims to the Medi-Cal program for items or services rendered by you. If you are currently enrolled in Medi-Cal, that enrollment will be terminated. Any involvement by you directly or indirectly (i.e., as an office manager, administrator, billing clerk processing or preparing claims for payment, salesperson for medical equipment, etc., or utilizing any other provider number or group or clinic number for services rendered by you) will result in nonpayment of the claim(s) submitted.

Any person who presents or causes to be presented a claim for equipment or services rendered by a person suspended from receiving Medi-Cal payment shall be subject to suspension from receiving payment, the assessment of civil money penalties, and/or criminal prosecution. (See Welf. & Inst. Code, §§ 14043.61, 14107, 14123.2; Cal. Code Regs., tit. 22, §§ 51458.1, 51484, 51485.1.) The Department will seek recoupment of any monies paid for claims presented to the Medi-Cal program for services or supplies provided by you during the duration of your suspension.

If you have any questions about this action, please submit your concerns, in writing, to the Office of Legal Services, Mandatory Suspension Desk, at the address above.

Sincerely,



Sara M. Granda
Attorney

cc: See Next Page

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Department of Health Care Services
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Sacramento, CA 95899-7413

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BEFORE THE
BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

BRENDA MARIE REES

Licensed Clinical Social Worker License
Number LCSW 9548

Respondent.

Case No. 200-2014-000790

OAH No. 2016100930

DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Behavioral Sciences as its Decision in the above-entitled matter.

This Decision shall be effective on September 20, 2017.

It is so ORDERED August 21, 2017.

Deborah Y. Brown

FOR THE BOARD OF BEHAVIORAL SCIENCE
DEPARTMENT OF CONSUMER AFFAIRS

BEFORE THE
BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

BRENDA MARIE REES,

Licensed Clinical Social Worker License
Number LCSW 9548,

Respondent.

Case No. 200-2014-000790

OAH No. 2016100930

PROPOSED DECISION

Theresa M. Brehl, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in San Diego, California on June 21, 2017.

Diane De Kervor, Deputy Attorney General, Department of Justice, State of California, represented complainant Kim Madsen, Executive Officer, Board of Behavioral Sciences, Department of Consumer Affairs, State of California.

Brenda Marie Rees, respondent, represented herself.

The matter was submitted on June 22, 2017.¹

SUMMARY

Complainant sought to revoke Ms. Rees's licensed clinical social worker license based on allegations that Ms. Rees was convicted of embezzlement of public funds; engaged in dishonest, corrupt, or fraudulent acts; failed to report her convictions to the board; and failed to cooperate with the board during its investigation. Ms. Rees acknowledged that she pled guilty and was convicted of the crimes alleged, but she blamed her conduct on others

¹ The record was held open until June 22, 2017, to allow the submission of an additional reference letter Ms. Rees had emailed to complainant's counsel but had not brought with her to the hearing. Complainant's counsel forwarded the letter to the Office of Administrative Hearings, and it was marked as Exhibit N and received in evidence as administrative hearsay.

and blamed her criminal defense attorney for her decision to enter a guilty plea. She also blamed her failures to notify the board of her conviction and cooperate with its investigation on her former criminal defense attorney. Ms. Rees downplayed the seriousness of her crimes and did not present sufficient evidence of rehabilitation to assure protection of the public if she were allowed to continue practicing. Accordingly, Ms. Rees's licensed clinical social worker license must be revoked.

FACTUAL FINDINGS

License History and Jurisdictional Background

1. The Board of Behavioral Sciences issued Licensed Clinical Social Worker License Number LCSW 9548 to Ms. Rees on April 28, 1982. The license expired on November 30, 1995, due to non-payment of renewal fees and was subsequently renewed on April 1, 1996. The license expired again on November 30, 2015, due to non-payment of renewal fees and was again renewed on December 28, 2016. The Board's License History Certification stated that the "license expired on November 30, 2017." (Emphasis in original.)²

2. Complainant signed the accusation on May 19, 2016. The accusation alleged four causes for discipline based on allegations that Ms. Rees was convicted of crimes substantially related to the qualifications, functions, and duties of a licensed clinical social worker; committed dishonest, corrupt, or fraudulent acts; failed to report her criminal conviction to the board; and failed to cooperate with the board during its investigation.

Ms. Rees timely submitted a notice of defense, and this hearing ensued.

The Conviction

3. On June 26, 2015, Ms. Rees was convicted in Riverside County Superior Court, on her plea of guilty, of 10 counts of violating Penal Code section 504, embezzlement of public funds, all felonies. The conviction included findings supporting sentencing enhancement under Penal Code sections 186.11, subdivision (a)(2), commission of two or more felonies involving fraud or embezzlement of property valued at more than \$500,000, and 12022.6, subdivision (a)(2), taking property valued at more than \$200,000. The court sentenced Ms. Rees to serve three years and four months in state prison, with credit for 60

² The expiration date appears to be in error, as the certification was dated and the hearing was conducted before November 30, 2017. Perhaps the certification should have read that the license "would expire" on November 30, 2017. However, no explanation was provided during the hearing. Even if the license expired, such expiration would not deprive the board of jurisdiction to proceed with this disciplinary action. (Bus. & Prof. Code, § 118, subd. (b).)

days served presentence³ and another 60 days credit under Penal Code section 4019, for a total of 120 days credit. The court also ordered her to pay booking fees of \$425.82, a restitution fine of \$300, a court operations assessment of \$400, and "Victim Restitution [Victim] in amount determined by Probation."

4. Each of the 10 counts of the criminal information alleged that, in violation of Penal Code section 504, between January 2003 and December 2008, Ms. Rees:

[D]id willfully and unlawfully, . . . [and] fraudulently appropriate to a use and purpose not in the due and lawful secretion of that person's trust in her possession and under her control by virtue of that trust and secrete it with fraudulent intent to appropriate it to that use and purchase [sic].⁴

The criminal information also included the following allegations applicable to all the counts:

The District Attorney of the County of Riverside further charges that in the commission and attempted commission of the above offense the said defendant, BRENDA MARIE REES, with the intent to do so, took, damaged and destroyed property of a value exceeding \$200,000, within the meaning of Penal Code section 12022.6, subdivision (a), subsection (2).

The District Attorney of the County of Riverside further charges that the said defendant, BRENDA MARIE REES, committed two or more related felonies, a material element of which was fraud or embezzlement, which involved a pattern of related felony conduct, and this pattern of related felony conduct involved the taking of more than five hundred thousand dollars (\$500,000) within the meaning of Penal Code section 186.11, subdivision (a).

ZAMORA ALLEGATION

³ As is discussed further below, Ms. Rees blamed her failure to respond to the board's enforcement analyst's multiple inquiries on the fact that she was in custody. The exhibits referenced arrest dates of December 1, 2008, and February 25, 2014, and Ms. Rees testified that she served her prison sentence from June 26, 2015, through August 13, 2016. However, no evidence was presented to establish the dates when Ms. Rees was in custody before she was sentenced.

⁴ Although Penal Code 504 uses the word "purpose," the criminal information said "purchase."

Pursuant to Penal Code section 799, there is no statutory limitation of time to prosecute the offenses charged in Counts 1 through 10 because the offenses allege the embezzlement of public money.

In her written plea agreement, Ms. Rees pled guilty to all the allegations against her, including all 10 counts of violating Penal Code section 504, the allegations under Penal Code sections 12022.6, subdivision (a)(2), and 186.11, subdivision (a)(2), and the Zamora (Penal Code section 799) allegation.

5. The Riverside County District Attorney's investigator wrote reports that were received in evidence under *Lake v. Reed* (1997) 16 Cal.4th 448. However, pursuant to the *Lake, supra*, decision and Government Code section 11513, subdivision (d), none of the information contained in those reports was considered in deciding this matter.

The *Lake* case considered the admissibility of law enforcement reports in administrative proceedings and concluded that an officer's direct observations memorialized in a police report were admissible under Evidence Code section 1280, the public employee records exception to the hearsay rule, and admissions by a party memorialized in a police report were admissible under Evidence Code section 1220. (*Id.* at pp. 461-462.) The *Lake* court noted that other witness statements in such reports, which were not otherwise admissible under any hearsay exception, were not sufficient to establish a finding, but could be used to supplement or explain other admissible evidence, citing Government Code section 11513. (*Id.* at p. 461.)

The investigator's reports did not contain any statements by Ms. Rees. Nor did the reports memorialize any direct observations by the investigating officer. Instead, the reports contained statements by employees of various governmental entities, including Riverside County and the California Department of Social Services, and information the investigator and others extracted from bank and other records, none of which was otherwise received in evidence. Such out of court statements would not be admissible over a hearsay objection to prove the truth of the matters asserted. As such, the hearsay statements contained in the investigator's reports could not be used on their own to support a factual finding in this matter. Further, the information in the investigator's reports did not explain or supplement other evidence presented in this case. Therefore, it would not be appropriate to consider the information in the reports when deciding this matter. (See Gov. Code, § 11513, subd. (d).)

6. Ms. Rees testified about and provided some documents regarding the circumstances that resulted in her conviction, which related to her ownership and operation of a foster family agency called "Humanistic Foster Family Agency" (Humanistic).⁵ Humanistic was formed in 1997 and was in the business of training foster parents and

⁵ With the agreement of the parties, after the case was submitted, confidential third-party personal identifying information, including the names of foster parents and foster children, was redacted from exhibits Ms. Rees presented.

placing foster children with foster parents. As a foster family agency, Humanistic received public funds for its operations, including funds to pay foster parents.

Although Ms. Rees's testimony was somewhat convoluted regarding the operations of Humanistic, she conceded that she used Humanistic's funds to open a thrift store and a counseling center and to pay return check fees, credit card fees, interest, and attorneys' fees. She also acknowledged that she transferred funds between Humanistic's account and her personal account. Additionally, she stated that Riverside County overpaid funds to Humanistic. However, her testimony regarding whether she or Humanistic repaid Riverside County for the overpayments was confusing. While she indicated that she made some repayments, she did not provide the amount that Riverside County had overpaid Humanistic. Ms. Rees also noted that due to problems with foster parents' checks not clearing, she had been required to institute a "corrective action" of paying foster parents with cashier's checks so the checks would not bounce. It was not clear from her testimony whether the county or the Department of Social Services had required such corrective action or whether Humanistic decided to institute the corrective action on its own.

As is set forth in more detail below, despite Ms. Rees's testimony that she accepted responsibility for what happened, she downplayed the seriousness of her conduct and blamed much of what occurred on others. She blamed the fact that Humanistic was audited and she was charged with the crimes on a "vendetta" she believed a former Humanistic employee had against her; she blamed Humanistic's financial problems, including issues with the foster parents' checks not clearing, on county delays making payments to Humanistic; she blamed her decision to plead guilty on her criminal defense attorney; and she blamed her failure to notify the board of her conviction and her failure to cooperate with the board's investigation on her criminal defense attorney.

Michelle Eernisse-Villanueva's Testimony

7. The Department of Justice notified the board on or about February 24, 2014, that Ms. Rees had been arrested and charged with 10 counts of embezzlement, and Michelle Eernisse-Villanueva, a board enforcement analyst, was assigned to investigate the matter. Ms. Eernisse-Villanueva testified by declaration concerning the board's attempts to obtain information from Ms. Rees.⁶

On March 21, 2014, Ms. Eernisse-Villanueva sent a letter to Ms. Rees, asking her to provide the following information within 30 days: a detailed description of the events that led to her arrest, an explanation of her rehabilitation efforts, a certified copy of the arrest report, and certified copies of court documents. The letter was sent to Ms. Rees's address of record with the board. The letter stated that "failure to comply with this request may result in formal disciplinary action." Ms. Rees did not respond to that letter. Ms. Eernisse-Villanueva

⁶ Ms. Eernisse-Villanueva's declaration was received in evidence under Government Code section 11514 and was given the same effect as if the witness had testified orally at the hearing. (Gov. Code, § 11514, subd. (a).)

sent follow up letters to Ms. Rees, again to her address of record with the board, on May 30, 2014, and August 22, 2014. Those letters also noted that failure to comply with the requests for information could result in disciplinary action against Ms. Rees's license. Ms. Rees did not respond to those letters.

On September 9, 2014, Ms. Eernisse-Villanueva received an email and letter from Attorney David Phillips, stating he was representing Ms. Rees in the criminal matter.

On June 26, 2015, the board was notified that Ms. Rees had been convicted, on her plea of guilty, of committing 10 counts of embezzlement, all felonies, and sentenced to serve three years and four months in state prison.

On June 30, 2015, Ms. Eernisse-Villanueva sent another letter to Ms. Rees, again asking for the same information previously requested about the charges. That letter also requested information about the court proceedings and proof of compliance with the court's orders. After she had not received any response from Ms. Rees, Ms. Eernisse-Villanueva sent another letter to Ms. Rees on August 13, 2015, with a copy to Attorney Phillips. On September 22, 2015, Ms. Eernisse-Villanueva sent an email to Attorney Phillips and asked for a response to her letters. Neither Ms. Rees nor Mr. Phillips responded.

Ms. Rees's Testimony

8. Ms. Rees is 67 years old and plans to work at least another 10 years. She is proud of the work she has done helping people. Ms. Rees would like to provide therapy to clients in a small practice setting so she may remain independent, manage her own business, and support herself. Since her conviction, insurers have declined to pay her to treat patients in their plans. She has requested services from the Department of Rehabilitation to help retrain her to work in another occupation. The Department of Rehabilitation advised her to see what happens with her license before she undergoes any retraining. She has also undergone five surgeries and suffered from serious health issues. She believes she has "paid the price" for her crimes.

9. Ms. Rees opened Humanistic, a foster family agency, in the late 1990s, and it closed on November 1, 2008. Ms. Rees was the owner and chief executive officer. The original purpose of Humanistic was to help foster children. It trained foster parents to receive children and placed children with the foster parents. Some parents ended up adopting the children. Counseling was a part of the business, because each child needed to be assessed and all the children needed counseling. Humanistic closed on November 1, 2008, after the Department of Social Services notified Humanistic and Ms. Rees that "the Aid to Families with Dependent Children-Foster Care rate for Humanistic Foster Family Agency" was "terminated" because Humanistic failed to submit required financial documents.

10. According to Ms. Rees, Humanistic suffered financial problems which Ms. Rees blamed on employees she hired, who did not fully carry out their duties, leading her to

make "errors in judgment regarding the management of the business." The company first experienced financial issues in approximately 2003, when Ms. Rees fired its administrator. The administrator had handled all the day-to-day operations before he was discharged. After that administrator left, Ms. Rees handled the administration of the company on her own. When the discharged administrator left, he took all the English-speaking parents with him, and he sued Humanistic and Ms. Rees. Ms. Rees used company funds to hire an attorney to represent her and her business in that action. She believed her use of company funds to pay the attorney was appropriate. According to Ms. Rees, after the discharged administrator left, it was "like there was a vendetta against her" and she "was audited by every agency." When a problem with checks to foster parents bouncing arose, Humanistic cured the problem by a "corrective action" using cashier's checks to pay the foster parents so the checks would not bounce. Ms. Rees pointed out that all the foster parents were paid the funds due to them.

11. Although Ms. Rees acknowledged her responsibility for her conviction, she downplayed the seriousness of the criminal charges. She stated her belief that the crimes should have been charged as misdemeanors instead of felonies. She also stated that "they" charged her with 10 separate counts that "were all for the same thing" to "make it look worse." She asserted that there "were certain circumstances beyond [her] control that led to" the criminal charges against her. According to Ms. Rees, the criminal charges arose because she used company funds to pay attorneys' fees; she did not repay overpayments to the county; she sometimes incurred and paid bank overdraft fees because payments to foster parents sometimes went out before the county had paid her company; she used company funds to pay credit card interest charges; she opened a counseling center, a thrift store, and a business called "BMR" with company funds; and her company's board held annual meetings in Las Vegas.

Ms. Rees disputed that the Las Vegas meetings were "gambling sprees" as the "District Attorney believed," and she supplied some board meeting minutes to substantiate that point. Ms. Rees also disputed that she failed to make repayments to the county for overpayments. She stated that she had reached an agreement with the county to make payments toward the overpayment. She did not, however, provide the amount of the overpayment or explain why or how it occurred. She supplied two checks showing that she paid the Department of Social Services \$6,000 in August 2006 and \$4,930 in May 2007. Ms. Rees's testimony was unclear regarding whether she believed she still owed any further funds to the county or the Department of Social Services. She stated that she had paid the restitution ordered by the court.⁷

Ms. Rees admitted she opened a counseling center with county funds, but she stated it provided counseling services as part of Humanistic's foster family agency business. The counseling center provided individual and group therapy, handled evaluations of foster

⁷ Although she referred to the court's order that she pay \$300 as "restitution," the \$300 the court ordered her to pay was described in court documents as a "restitution fine." The court records also ordered Ms. Rees to pay "Victim Restitution [Victim] in amount determined by Probation." Ms. Rees denied that the probation office ever determined an amount of victim restitution.

children, case management, and emergency services. The counseling center also collaborated with local schools to provide students with anger management, crisis intervention, and ongoing therapy. According to Ms. Rees, because billing was not being done, funds were not received for services, which ended up being given for free.

Ms. Rees also opened a thrift store, but she stated it was really an “adjunct to the foster family agency” so foster parents could obtain clothes for foster children. She said the thrift store was a “non-profit” because the clothes were donated, but she did not otherwise explain how it was operated or funded. She also stated that one of the thrift store’s goals was to provide job training, but she did not explain how that was related to her foster family agency.

Ms. Rees explained that “BMR” was a personal business that sold items on eBay and it had nothing to do with Humanistic. Ms. Rees said she opened BMR with her own earnings and money she had saved.

According to Ms. Rees, the problem was that she ran the foster family agency as her “own personal business” as opposed to treating it as a corporation. She noted that “intermingled” was the “key word,” as she had “transferred money in and out” of the business account.

12. Ms. Rees blamed her attorney for her decision to plead guilty. She stated that he was ill and did not work for eight months while the charges against her were pending. She attended 10 court hearings with different attorneys, and she “was forced into taking a plea without understanding the full ramifications of what this meant.” She was caught by surprise when she was taken into custody at the sentencing hearing, and she was also surprised that she had to serve time in prison with murderers, when she had been convicted of a white-collar crime. She served two months in county jail and thirteen and one-half months in state prison. She was released from custody on August 13, 2016, and her post-release probation was approved for early termination on June 13, 2017.

13. Ms. Rees blamed her criminal lawyer and her incarceration for her failure to respond to the board’s inquiries regarding her arrest and conviction. However, she was not in custody during all the times when the board’s enforcement analyst’s letters were sent. She noted that her brother told her about some of the letters. But she said her criminal defense attorney was supposed to communicate to the board on her behalf.

14. According to Ms. Rees, she has complied with all the court’s orders because she did her time, did her post-release probation, participated in recommended mental health services, and paid restitution.⁸

In support of Ms. Rees’s testimony that she participated in recommended mental health services, she presented a June 14, 2017, letter from the Riverside University Health System, Behavioral Health. That letter stated:

⁸ See footnote 7, above.

Brenda Rees entered into the Riverside New Life program on 10/6/2016. Riverside New Life provides psychiatric services, individual and group therapy, case management, and peer support for individuals on AB 109 Probation. Ms. Rees has been an active participant in her treatment.

As Ms. Rees' probation ends so will services through Riverside New Life.

Ms. Rees has completed her treatment expectations at this time.

15. When Ms. Rees was asked about any assurances she could provide that it would be safe for the public if the board allowed her to continue to practice, she responded that she has her "life" and her "word." She also stated that she "loves this work," and without it she did not know what she would do.

Character Witnesses and Reference Letters

16. Ms. Rees called two witnesses, Delia Suarez-Bell and Raymond Jordan, to testify regarding her character, and she submitted several reference letters⁹ dated both before and after her conviction.

17. Delia Suarez-Bell, one of Ms. Rees's friends and former employees, testified and provided a reference letter, dated September 14, 2014. Ms. Suarez-Bell worked for Ms. Rees and Humanistic from 2000 to 2007. She started as a marriage and family therapist intern, conducting intake assessments, treatment planning, and therapy to individuals, families, and couples. She was later transferred to the "foster agency department," where she worked as a fulltime foster care social worker.

Ms. Suarez-Bell testified about her observations while working for Ms. Rees, and she expressed her opinion that there was a lot of turmoil caused by the former administrator running the business "as if it was his own." Ms. Suarez-Bell also testified that a lot of the services were provided free of charge at the counseling center because the patients were not being billed. She explained that most of the foster children needed therapy because they had experienced trauma and had behavioral issues. Humanistic's counseling center provided that therapy, although the children could receive the therapy anywhere. When Ms. Suarez-Bell worked as a foster family social worker, she performed foster family home visits to evaluate safety issues and conduct welfare checks.

⁹ The reference letters were received as administrative hearsay. Comments in those letters regarding why the authors believed Ms. Rees was charged and/or convicted were not considered in this matter, as those statements constituted otherwise inadmissible hearsay that did not supplement or explain other evidence. (See Gov. Code, § 11513, subd. (d).)

In her letter, Ms. Suarez-Bell described Ms. Rees as a "very warm and caring person" who was "kind hearted, genuine, and honest." Her letter stated that she observed Ms. Rees "ensure all mental health providers, employed by her, were providing mental health services up to ethics and standards for the population (Medi-Cal, Low income, Victim Witnesses of Crime, Court Ordered, Low income, Cash clients, etc.) we served." Ms. Suarez-Bell also wrote:

I believe whole heartedly that Brenda Rees worked hard to face the issues once they were brought to her attention. I also believe that the goodness and flexibility Brenda demonstrated resulted in employees taking advantage of her good character. As such, I continue to believe Brenda demonstrated strong ethics and values as long as she ran the organization.

18. Ms. Rees's brother, Raymond Jordan, testified that he "has nothing but love for" his sister. He described Ms. Rees as "such a caring person," that he believed her employees "played on her friendship and love and took advantage of her and the situation." He stated that he had warned her that some of the people were not her friends.

19. Ruben Medellin wrote two letters, dated September 17, 2014, and June 16, 2017. Mr. Medellin and his wife served as foster parents through Humanistic from approximately 2004 until 2007. Mr. Medellin's letters noted that Humanistic had placed 35 children with them over six years and always paid them, at times paying them with cashier's checks. He wrote that he and his wife had worked with four other foster family agencies before deciding to work with Humanistic. In his September 17, 2014, letter, he described Ms. Rees as "the only owner who has shown concern for [sic] good of a household and more importantly the welfare of her children/placements in the home." In his June 16, 2017, letter, he wrote:

As mentioned we have worked with other FFAs that had no reason to be in business and personally, I speak for my wife also, we never understood why or how Humanistic FFA would go out of business when the firm's policy was to care and protect the state's foster children and no one has done that better than Brenda Rees and her staff. If there is anything else that my family can do to help Brenda get back into fostering, my wife and I are available to help.

20. Evelyn Rounds, L.C.S.W., wrote a character reference letter dated September 26, 2014. Ms. Rounds met Ms. Rees in 1990, when Ms. Rees was admitting and working with patients who suffered from mental illnesses at a hospital in Long Beach, California. Ms. Rounds wrote that at that time she "was struck by the compassion and concern" Ms. Rees showed her patients. Ms. Rounds eventually worked for Ms. Rees in private practice, during which Ms. Rees took Ms. Rounds "under her wings." Ms. Rounds later worked for Humanistic. Ms. Rounds wrote the following regarding Ms. Rees's character:

All the kids who came into contact with her loved her. She made them laugh, feel special and loved. She has a heart of gold. I've met many of her friends who cherish her; more than she does herself. Please believe me when I say that Brenda is a good person and one who will literally give you the shirt off of her own back. I hope that the truth will prevail and that she will receive justice in this unfortunate situation that she is faced with.

21. Deborah Kelly, a former employee of Ms. Rees, wrote a reference letter dated September 17, 2014. The letter did not state how long Ms. Kelly knew Ms. Rees. According to Ms. Kelly's letter:

If Brenda is guilty of anything it is trusting the wrong people to do the right thing. Brenda has never taken anything from anyone, she is an honest hard working woman She is no criminal [sic] she is a loving caring woman who has helped many people as well as myself. I worked for her and it was a great career experience. Please look at all she has done for the community and you will see this is a situation is [sic] not who Brenda Rees is, she is an asset to her community and to those who really know her. This is a real woman who has never been in trouble with the law.

22. Evangelist Jerry Musgrove wrote two reference letters, dated September 24, 2014, and June 15, 2017. Rev. Musgrove has known Ms. Rees for over 20 years, and his letters stated Ms. Rees was good, honest, compassionate, kind, and generous. In his most recent letter, he wrote:

I have never known her to be involved in any dishonest or dubious business or personal practices. The recent turn of events (i.e. legal allegations) has taken me by surprise. For all the years I have known Ms. Rees she has been successful in her professionally [sic] and personally [sic] life. She is committed to providing excellent services to the poor and disenfranchised individuals in the community who are the most vulnerable. Ms. Rees has had a tremendous, positive, impact on the individuals she provides services to [sic] and the community in which she serves.

23. Sandra Moore, M.S.W., who has known Ms. Rees for approximately 30 years, wrote an email dated June 21, 2017, attesting to Ms. Rees's character as "a very kind and warm person." Her email also stated:

I do feel that not to allow her to continue her work would be very detrimental to her as well as to client [sic]. [S]he's been in the community for a long long time and she does love those clients and works very hard with him [sic]. I feel that everyone deserves another chance and I hope that the court and the board will find it in your [sic] hearts to give Miss Rees another chance. Miss Reese [sic] has been a member of the Board of Behavioral Science Examiners since 1982 and to my knowledge this is the first time she's ever had any trouble whatsoever.

Complainant's Request for Enforcement Cost Recovery

24. The deputy attorney general who handled the hearing submitted a declaration in support of complainant's request for recovery of enforcement costs. Her declaration set forth the categories of tasks performed, the number of hours spent on each category of tasks, and the hourly rate charged. The enforcement costs requested totaled \$7,262.50. The costs requested are reasonable.

25. Ms. Rees testified that requiring her to pay the board's costs would impose a financial burden on her. Ms. Rees has not been working and has been receiving public assistance. If she is unable to retain her license, she plans to pursue retraining through the Department of Rehabilitation.

LEGAL CONCLUSIONS

1. Administrative proceedings to revoke, suspend or impose discipline on a professional license are noncriminal and nonpenal; they are not intended to punish the licensee but rather to protect the public. (*Griffiths v. Superior Court* (2001) 96 Cal.App.4th 757, 768.) The main purpose of license discipline is protection of the public through the rehabilitation of the licensee and prevention of future harm. (*Id.* at p. 772.)

2. In exercising its licensing, regulatory, and disciplinary functions, the board's highest priority is protection of the public. "Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount." (Bus. & Prof. Code, § 4990.16.)

Standard and Burden of Proof

3. Complainant bears the burden of proof of establishing that the charges in the accusation are true. (*Martin v. State Personne Board* (1972) 26 Cal.App.3d 573, 583.)

4. The standard of proof in an administrative proceeding seeking to suspend or revoke a license that requires substantial education, training, and testing, such as the licensed clinical social worker license at issue here, is "clear and convincing evidence" to a

reasonable certainty. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 855-856.)

5. "Clear and convincing evidence" requires a "high probability of the existence of the disputed fact, greater than proof by a preponderance of the evidence." (*People v. Mabini* (2001) 92 Cal.App.4th 654, 662.) "Evidence of a charge is clear and convincing as long as there is a 'high probability' that the charge is true. [Citations.]" (*Ibid.*)

6. In a disciplinary proceeding, the burden of proof is on respondent to produce positive evidence of rehabilitation. (*Epstein v. California Horse Racing Board.* (1963) 222 Cal.App.2d 831, 842-843.)

Disciplinary Authority

7. Business and Professions Code section 4992.3 authorizes the board to impose discipline upon the holder of a clinical social worker license. Business and Professions Code section 4992.3, subdivisions (a), (f), and (k), provide:

The board may deny a license or a registration, or may suspend or revoke the license or registration of a licensee or registrant if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter is a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or

setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

[¶] ... [¶]

(f) Violating, attempting to violate, or conspiring to violate this chapter or any regulation adopted by the board.

[¶] ... [¶]

(k) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

8. California Code of Regulations, title 16, section 1881, subdivisions (e), (s), and (t), provide:

As used in Section 4992.3 of the code, unprofessional conduct includes, but is not limited to:

[¶] ... [¶]

(e) Commits any dishonest, corrupt, or fraudulent act which is substantially related to the qualifications, functions or duties of a licensee.

[¶] ... [¶]

(s) Failure to report to the board within 30 days any of the following:

(1) A conviction of any felony or misdemeanor, which is not subject to Health & Safety Code sections 11357 (b), (c), (d), (e), or 11360 (b). A conviction includes any verdict of guilty, or plea of guilty or no contest.

[¶] ... [¶]

(t) Failure to provide, within 30 days of a request, documentation to the Board regarding the arrest of the licensee or registrant, except for records of convictions or arrests protected under Penal Code section 1000.4, or Health and Safety Code sections 11361.5 and 11361.7.

9. Business and Professions Code section 490 also authorizes the imposition of discipline on a licensee who has been convicted of a crime substantially related to the qualifications, functions, and duties of a licensee. (Bus. & Prof. Code, § 490, subd. (a).)

10. A conviction will not support disciplinary action against a licensee "unless the crime substantially relates to the qualifications, functions, or duties of the profession in question." (*Harrington v. Department of Real Estate* (1989) 214 Cal.App.3d 394, 402.) Business and Professions Code section 481 requires the board to "develop criteria to aid it, when considering the denial, suspension or revocation of a license, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates."

11. Under California Code of Regulations, title 16, section 1812, a crime or act is considered substantially related to the qualifications, functions, or duties of a licensed clinical social worker "if to a substantial degree it evidences the present or potential unfitness of a person holding a license to perform the functions authorized by his or her license in a manner consistent with the public health, safety, or welfare."

12. "A plea of guilty in a criminal prosecution is 'a conclusive admission of [his] guilt and of every element entering into the offense charged' [citation] and 'constitutes no less than a confession of every factor comprising the charges contained in the pleading.' [Citation]. . . . 'The effect is the same as if the defendant had been tried before a jury and had been found guilty upon evidence covering all material facts.'" (*Arenstein v. California State Bd. of Pharmacy* (1968) 265 Cal.App.2d 179, 190; Bus. & Prof. Code, § 493.) A respondent in an administrative proceeding is "not permitted to impeach his conviction by explaining the 'true' reasons for" his plea. (*Arlneson v. Fox* (1980) 28 Cal.3d 440, 449.)

The Relevant Penal Code Sections

13. Penal Code section 504 provides:

Every officer of this state, or of any county, city, city and county, or other municipal corporation or subdivision thereof, and every deputy, clerk, or servant of that officer, and every officer, director, trustee, clerk, servant, or agent of any association, society, or corporation (public or private), who fraudulently appropriates any use or purpose not in the due and lawful execution of that person's trust, any property in his or her possession or under his or her control by virtue of that trust, or secretes it with a fraudulent intent to appropriate it to that use or purpose, is guilty of embezzlement.

//

14. Penal Code section 12022.6, subdivision (a)(2), states:

(a) When any person takes, damages, or destroys any property in the commission or attempted commission of a felony, with the intent to cause that taking, damage, or destruction, the court shall impose an additional term as follows:

[¶] . . . [¶]

(2) If the loss exceeds two hundred thousand dollars (\$200,000), the court, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which the defendant has been convicted, shall impose an additional term of two years.

15. Under Penal Code section 186.11, subdivision (a)(2):

If the pattern of related felony conduct involves the taking of, or results in the loss by another person or entity of, more than five hundred thousand dollars (\$500,000), the additional term of punishment shall be two, three, or five years in the state prison.

16. Penal Code section 799, subdivision (a), provides that a prosecution "for the embezzlement of public money, may be commenced at any time."

Evaluation of Cause to Discipline Ms. Rees's License

17. Complainant proved by clear and convincing evidence that Ms. Rees was convicted of 10 counts of embezzlement of public funds in excess of \$500,000. Those crimes were committed by Ms. Rees while she was serving as the owner and chief executive officer of a foster family agency corporation. Ms. Rees's crimes included the use and intermingling of public funds with Ms. Rees's personal funds to operate a counseling center, thrift shop, and personal eBay businesses and to pay other expenses that were not proper foster family agency business expenses. The elements of Ms. Rees's crimes included the fraudulent taking of public funds. Ms. Rees embezzled public funds that were entrusted to her for the purpose of operating a foster family agency for the benefit of foster children in need of care, and Ms. Rees's crimes were committed while she was also operating a counseling service that furnished clinical social worker services which she was licensed by the board to provide. Accordingly, her criminal conduct evidenced, to a substantial degree, her present or potential unfitness to perform the functions authorized by her license in a manner consistent with the public health, safety, or welfare.

18. Complainant proved by clear and convincing evidence that Ms. Rees failed to respond to the board's multiple requests for information regarding her arrest and the charges against her within 30 days of the board's enforcement analyst's letters of inquiry.

Complainant also proved by clear and convincing evidence that Ms. Rees failed to notify the board of her conviction within 30 days. Ms. Rees claimed she might not have received the board's letters and blamed her attorney and her incarceration for her failures to communicate with the board. Her testimony was not credible regarding the reasons she claimed she failed to respond to the board or notify the board of her conviction.

While Ms. Rees testified that she may not have received the board's letters because she was in prison, the board's enforcement analyst sent letters to Ms. Rees before she was sentenced and incarcerated in 2015. The evidence did not establish when Ms. Rees was in custody before she was sentenced, but the board enforcement analyst sent several letters to Ms. Rees over a seven-month span of time during 2014, and Ms. Rees only served a total of 60 days in custody before she was sentenced in June 2015. Therefore, it does not make sense that she would not have received any of the board's letters. Ms. Rees also admitted that her brother told her about some of the letters while she was incarcerated.

Even though Ms. Rees also blamed her failure to respond to the board's inquiries on her criminal lawyer, Ms. Rees's testimony blaming almost everything that occurred on someone else casts serious doubt on her claim that her criminal defense attorney was tasked with communicating with the board on her behalf.

Although Ms. Rees's 2015 incarceration might have explained a delay responding to the board enforcement analyst's letters, Ms. Rees did not provide a credible explanation for her complete failure to respond to any of the board enforcement analyst's inquiries.

19. Cause exists to discipline Ms. Rees's licensed clinical social worker license under Business and Professions Code sections 490, subdivision (a), and 4992.3, subdivision (a), because Ms. Rees was convicted of crimes substantially related to the qualifications, functions, and duties of a licensed clinical social worker.

20. Cause exists to discipline Ms. Rees's licensed clinical social worker license under Business and Professions Code section 4992.3, subdivision (k), for unprofessional conduct, within the meaning of California Code of Regulations, title 16, section 1881, subdivision (e), because Ms. Rees engaged in dishonest, corrupt, or fraudulent acts that were substantially related to the qualifications, functions, and duties of a licensed clinical social worker when she embezzled public funds.

21. Cause exists to discipline Ms. Rees's licensed clinical social worker license under Business and Professions Code section 4992.3, subdivision (f), for unprofessional conduct, within the meaning of California Code of Regulations, title 16, section 1881, subdivision (s), because Ms. Rees failed to notify the board of her conviction within 30 days.

22. Cause exists to discipline Ms. Rees's licensed clinical social worker license under Business and Professions Code section 4992.3, subdivision (f), for unprofessional conduct, within the meaning of California Code of Regulations, title 16, section 1881,

subdivision (t), because Ms. Rees failed to respond to the board enforcement analyst's multiple letters of inquiry.

Authority Regarding Rehabilitation and the Appropriate Level of Discipline

23. Rehabilitation is a state of mind, and a person who has reformed should be rewarded with the opportunity to serve. (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) "Remorse does not demonstrate rehabilitation. While a candid admission of misconduct and a full acknowledgement of wrongdoing may be a necessary step in the process, it is only a first step. In our view, a truer indication of rehabilitation will be presented if petitioner can demonstrate by his sustained conduct over an extended period of time that he is once again fit to practice. . . ." (*In re Conflenti* (1981) 29 Cal.3d 120, 124-125.) "Fully acknowledging the wrongfulness of his actions is an essential step towards rehabilitation." (*Seide v. Commission of Bar Examiners* (1989) 49 Cal.3d 933, 941.)

24. "The evidentiary significance of an applicant's misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct." (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.) However, because persons "under the direct supervision of correctional authorities are required to behave in exemplary fashion, little weight is generally placed on the fact that an individual did not commit additional crimes . . . while in prison or while on probation or on parole." (*In re Gossage* (2000) 23 Cal.4th 1080, 1099.) "It is not enough that petitioner kept out of trouble while being watched on probation; he must affirmatively demonstrate over a prolonged period his sincere regret and rehabilitation." (*Seide v. Commission of Bar Examiners* (1989) 49 Cal.3d 933, 939.) The fact that a respondent "who has been found guilty . . . rigorously complies with the conditions of his probation does not necessarily prove anything but good sense." (*Windham v. Board of Medical Quality Assurance* (1980) 104 Cal.App.3d 461, 473.)

25. Each board must develop criteria to evaluate the rehabilitation of a licensee for whom the board is considering suspension or revocation of a license. (Bus. & Prof. Code, § 482, subd. (b).) The board must "take into account all competent evidence of rehabilitation furnished by the" licensee. (Bus. & Prof. Code, § 482.)

26. California Code of Regulations, title 16, section 1814, subdivision (a), outlines the rehabilitation criteria to be used when the board considers suspending or revoking a license. These criteria are:

- (1) Nature and severity of the act(s) or crime(s) under consideration as grounds for suspension or revocation.
- (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for suspension or revocation under Section 490 of the Code.

- (3) The time that has elapsed since commission of the act(s) or crime(s) giving rise to the suspension or revocation.
- (4) Whether the licensee has complied with any terms of probation, parole, restitution or any other sanctions lawfully imposed against such person.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, concerning the degree to which a false statement relative to application for licensure may have been unintentional, inadvertent or immaterial.
- (7) Efforts made by the applicant either to correct a false statement once made on an application or to conceal the truth concerning facts required to be disclosed.
- (8) Evidence, if any, of rehabilitation submitted by the licensee.

27. California Code of Regulations, title 16, section 1888, subdivision (a), provides that when reaching a decision in a disciplinary action, the board "shall consider the 'Uniform Standards Related to Substance Abuse and Disciplinary Guidelines' [Rev. October 2015] Deviation from the Disciplinary Guidelines, including the standard terms of probation, is appropriate where the Board in its sole discretion determines that the facts of the particular case warrant such a deviation" (*Ibid.*)

28. The board's disciplinary guidelines include recommendations for certain conduct. For conviction of a substantially related crime, the maximum recommended discipline is revocation and the minimum is revocation, stayed, with 60 days actual suspension, and five years' probation, with conditions including supervised practice, education, reimbursement of probation costs, and cost recovery. The recommendation for dishonest, corrupt, or fraudulent acts is similar; however, the minimum penalty may include 30 to 60 days actual suspension and three to five years' probation, with conditions including education, reimbursement of probation costs, cost recovery, and a law and ethics course. For violation of Business and Professions Code section 4992.3, subdivision (f) (failure to comply with regulations), the recommended discipline ranges from revocation to revocation, stayed, with a variety of terms that may include probation depending on the specific conduct in question.

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Evaluation of Appropriate Discipline

29. In the present case, Ms. Rees was only recently released from prison, less than one year ago, and she completed her post-custody probation the week before the hearing. Other than serving her time in custody and following the probation department's recommendations, she had not done anything else to rehabilitate herself.

More troubling was Ms. Rees's evident failure to fully accept responsibility for and appreciate the serious nature of her crimes. Although she expressed remorse, her repeated statements that she was responsible for her criminal conduct rang hollow because she also stated she did not believe she had really done anything wrong. She blamed her former employees, including an apparently disgruntled employee, not only for the crimes, but also for the fact that her business was audited and the crimes were discovered. Additionally, she blamed her criminal attorney for her decision to enter a guilty plea and for her complete failure to respond to the board enforcement analyst's many inquiries regarding her arrest, the charges against her, and her conviction. Ms. Rees, who embezzled more than \$500,000 of public funds, did not believe she hurt anyone, and portrayed herself as the victim. Her testimony regarding rehabilitation focused on her belief that she had already suffered enough from the court ordered penalties resulting from her conviction.

Because Ms. Rees did not present sufficient evidence of rehabilitation, it would not be in the public interest to allow her to continue to practice, even in a probationary capacity, as a licensed clinical social worker. Accordingly, Ms. Rees's license must be revoked.

Enforcement Cost Recovery

30. Business and Professions Code section 125.3 provides, in pertinent part:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding . . . the board may request the administrative law judge to direct a licentiate found to have committed a violation . . . of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case

[¶] . . . [¶]

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a)

31. California Code of Regulations, title 1, section 1042, subdivision (b), provides:

Except as otherwise provided by law, proof of costs at the Hearing may be made by Declarations that contain specific and sufficient facts to support findings regarding actual costs incurred and the reasonableness of the costs, which shall be presented as follows:

(1) For services provided by a regular agency employee, the Declaration may be executed by the agency or its designee and shall describe the general tasks performed, the time spent on each task and the method of calculating the cost. For other costs, the bill, invoice or similar supporting document shall be attached to the Declaration.

(2) For services provided by persons who are not agency employees, the Declaration shall be executed by the person providing the service and describe the general tasks performed, the time spent on each task and the hourly rate or other compensation for the service. In lieu of this Declaration, the agency may attach to its Declaration copies of the time and billing records submitted by the service provider.

32. In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court dealt with the issue of cost recovery and noted that because a licensee with limited financial resources might forego a hearing for fear that a board might erroneously sustain the charges and order the licensee to reimburse costs, discretion must be used to ensure that a licensee with a meritorious claim is not deterred from exercising his or her right to a hearing. (*Id.* at p. 44.) The Court determined that five factors should be considered in determining whether a particular licensee should be ordered to pay the reasonable costs of investigation and prosecution under statutes like Business and Professions Code section 125.3: Whether the licensee has been successful at hearing in having charges dismissed or reduced, the licensee's subjective good faith belief in the merits of his or her position, whether the licensee raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate in light of the alleged misconduct. (*Ibid.*)

33. The costs for the work performed by the deputy attorney general of \$7,262.50 were reasonable. Respondent engaged in the conduct alleged in the accusation. Although respondent may have exhibited a subjective good faith, albeit mistaken, belief in the merits

of her position, she failed to raise a colorable challenge to the discipline in pursuing a hearing. This was not a case in which the agency conducted a disproportionately large investigation and prosecution to prove relatively innocuous misconduct, as the conduct was of a serious nature. Finally, the respondent stated she has not been working and has been receiving public assistance, such that it would be difficult, if not impossible, for her to pay the costs, particularly without a license to practice as a licensed clinical social worker.

34. Due to Ms. Rees's financial situation, the enforcement costs shall be reduced to \$3,500. Payment of such costs shall not be required unless Ms. Rees petitions for reinstatement of her license; repayment of the costs shall be required as a condition of reinstatement.

ORDER

1. Licensed Clinical Social Worker License Number LCSW 9548 issued to Brenda Marie Rees is revoked.

2. Brenda Marie Rees shall pay to the board \$3,500 as and for reasonable costs of enforcement. However, payment of such costs shall not be required unless Ms. Rees petitions for reinstatement of licensure, and payment of such costs shall then be required as a condition of reinstatement.

DATED: July 18, 2017

DocuSigned by:
Theresa Brehl
A6B0D1C9SF194AE...

THERESA M. BREHL
Administrative law Judge
Office of Administrative Hearings

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9 **BEFORE THE**
BOARD OF BEHAVIORAL SCIENCES
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2002014000790

13 **BRENDA MARIE REES**
12016 Vista De Cerros Drive
14 Moreno Valley, CA 92555

A C C U S A T I O N

15 **Licensed Clinical Social Worker License No.**
16 **LCSW 9548**

17 **Respondent.**

18
19 **Complainant alleges:**

20 **PARTIES**

21 1. Kim Madsen (Complainant) brings this Accusation solely in her official capacity
22 as the Executive Officer of the Board of Behavioral Sciences (Board), Department of Consumer
23 Affairs.

24 2. On April 28, 1982, the Board issued Licensed Clinical Social Worker License
25 Number LCSW 9548 to Brenda Marie Rees (Respondent). The Licensed Clinical Social Worker
26 License expired on November 30, 2015, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Code section 118, subdivision (b) provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Code section 4996.11 states:

The board may suspend or revoke the license of any person who is guilty on the grounds set forth in Section 4992.3. The proceedings for the suspension or revocation of licenses under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted in that chapter.

STATUTORY PROVISIONS

6. Code section 482 states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Code section 490 provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Code section 493 states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be

1 conclusive evidence of the fact that the conviction occurred, but only of that fact,
2 and the board may inquire into the circumstances surrounding the commission of
3 the crime in order to fix the degree of discipline or to determine if the conviction
4 is substantially related to the qualifications, functions, and duties of the licensee in
5 question.

6 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,'
7 and 'registration.'

8 9. Section 4992.3 of the Code states, in pertinent part:

9 The board may deny a license or registration or may suspend or revoke the
10 license or registration of a licensee or registrant if he or she has been guilty of
11 unprofessional conduct. Unprofessional conduct includes, but is not limited to, the
12 following:

13 (a) The conviction of a crime substantially related to the qualifications,
14 functions, or duties of a licensee or registrant under this chapter. The record of
15 conviction shall be conclusive evidence only of the fact that the conviction
16 occurred. The board may inquire into the circumstances surrounding the
17 commission of the crime in order to fix the degree of discipline or to determine if
18 the conviction is substantially related to the qualifications, functions, or duties of
19 a licensee or registrant under this chapter. A plea or verdict of guilty or a
20 conviction following a plea of nolo contendere made to a charge substantially
21 related to the qualifications, functions, or duties of a licensee or registrant under
22 this chapter shall be deemed to be a conviction within the meaning of this section.
23 The board may order any license or registration suspended or revoked, or may
24 decline to issue a license or registration when the time for appeal has elapsed, or
25 the judgment of conviction has been affirmed on appeal, or, when an order
26 granting probation is made suspending the imposition of sentence, irrespective of
27 a subsequent order under Section 1203.4 of the Penal Code allowing the person to
28 withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict
of guilty, or dismissing the accusation, information, or indictment.

...

(f) Violating, attempting to violate, or conspiring to violate this chapter or
any regulation adopted by the board.

...

(k) The commission of any dishonest, corrupt, or fraudulent act
substantially related to the qualifications, functions, or duties of a licensee or
registrant.

....

REGULATORY PROVISIONS

10. Title 16 of the California Code of Regulations (CCR), section 1812, defines
"substantially related" as follows:

1 For purposes of denial, suspension, or revocation of a license or
2 registration pursuant to Division 1.5 (commencing with Section 475) of the Code,
3 a crime or act shall be considered to be substantially related to the qualifications,
4 functions or duties of a person holding a license under Chapter 17 of Division 3
5 and Chapter 4 of Part 3 of Division 7 of the Code if to a substantial degree it
6 evidences present or potential unfitness of a person holding a license to perform
7 the functions authorized by his or her license in a manner consistent with the
8 public health, safety or welfare.

9 11. CCR section 1814 states, in pertinent part:

10 (a) When considering the suspension or revocation of a license, the
11 board, in evaluating the rehabilitation of such person and his or her eligibility for
12 a license will consider the following criteria:

13 (1) Nature and severity of the act(s) or crime(s) under
14 consideration as grounds for suspension or revocation.

15 (2) Evidence of any act(s) committed subsequent to the act(s) or
16 crime(s) under consideration as grounds for suspension or revocation under
17 Section 490 of the Code.

18 (3) The time that has elapsed since commission of the act(s) or
19 crime(s) giving rise to the suspension or revocation.

20 (4) Whether the licensee has complied with any terms of probation,
21 parole, restitution or any other sanctions lawfully imposed against such person.

22 (5) If applicable, evidence of expungement proceedings pursuant
23 to Section 1203.4 of the Penal Code.

24 (6) Evidence, if any, concerning the degree to which a false
25 statement relative to application for licensure may have been unintentional,
26 inadvertent or immaterial.

27 (7) Efforts made by the applicant either to correct a false statement
28 once made on an application or to conceal the truth concerning facts required to
be disclosed.

(8) Evidence, if any, of rehabilitation submitted by the licensee.

....

12. CCR section 1881 states, in pertinent part:

As used in Section 4992.3 of the code, unprofessional conduct includes,
but is not limited to:

...

(e) Commits any dishonest, corrupt, or fraudulent act which is
substantially related to the qualifications, functions or duties of a licensee.

...

1 (s) Failure to report to the board within 30 days any of the following:

2 (1) A conviction of any felony or misdemeanor, which is not
3 subject to Health & Safety Code sections 11357 (b), (c), (d), (e), or 11360 (b). A
4 conviction includes any verdict of guilty, or plea of guilty or no contest.

5 ...

6 (t) Failure to provide, within 30 days of a request, documentation to
7 the Board regarding the arrest of the licensee or registrant, except for records of
8 convictions or arrests protected under Penal Code section 1000.4, or Health and
9 Safety Code sections 11361.5 and 11361.7.

10

11 COST RECOVERY

12 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request
13 the administrative law judge to direct a licentiate found to have committed a violation or
14 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
15 and enforcement of the case, with failure of the licentiate to comply subjecting the license to not
16 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
17 may be included in a stipulated settlement.

18 FIRST CAUSE FOR DISCIPLINE

19 (April 8, 2015 Conviction for Embezzlement in January 2003 Through December 2008)

20 14. Respondent has subjected her Licensed Clinical Social Worker License to
21 discipline under Code sections 490 and 4992.3, subdivision (a), in that Respondent was
22 convicted of crimes substantially related to the qualifications, functions, and duties of a licensed
23 clinical social worker. The circumstances are as follows:

24 a. On April 8, 2015, in a criminal proceeding entitled *The People of the State*
25 *of California v. Brenda Marie Rees*, in Riverside County Superior Court, Riverside Hall of
26 Justice, Case Number RIF1400122, Respondent was convicted on her plea of guilty of ten counts
27 of violating Penal Code (PC) section 504, embezzlement, all felonies. Respondent admitted and
28 the court found true the allegation that in the commission of the multiple felonies involving
embezzlement, she took property of a value exceeding \$150,000.00, which is a sentencing
enhancement under PC section 12022.6, subdivision (a)(2). Respondent also admitted and the
court found true the allegation that in the commission of the multiple felonies involving

1 embezzlement, she committed white collar crimes resulting in losses of more than \$500,000.00,
2 which is a sentencing enhancement pursuant to PC section 186.11, subdivision (a)(2).

3 b. As a result of the convictions, on June 26, 2015, Respondent was sentenced
4 to state prison for a total term of three years and four months, with credit for 60 days served and
5 60 days for good behavior. Respondent was ordered to pay fines, fees, assessments, charges, and
6 restitution.

7 c. The facts that led to the convictions are that on June 16, 1997, Respondent
8 filed for registration with the California Department of State a corporation named Humanistic
9 Foster Family Agency (Humanistic FFA), which owned A Family Affair Group Home. Group
10 homes (GH) and foster family agencies (FFA) are used in the County of Riverside to place and
11 care for foster children. For the County of Riverside, the Department of Public Social Services
12 (DPSS) administered the GH and FFA funds, which consisted of 50 percent federal funds, 30
13 percent county funds, and 20 percent state funds. Humanistic FFA contracted with approximately
14 36 foster families/parents. From September 2006 to January 2007, at least 56 checks issued by
15 Humanistic FFA to eight employees and 37 foster parents were returned due to insufficient
16 funds.

17 d. In a random audit, an internal auditor from the County of Riverside
18 Auditor-Controller found that Humanistic FFA incurred unallowable expenses as follows:
19 \$246,086.86 used to open and operate a counseling center that has no documentation of
20 providing counseling services; \$91,407.00 used to open a thrift store; \$23,353.97 paid for legal
21 services that were covered by professional liability insurance; \$9,800.00 paid to rent an idle
22 facility; \$7,781.14 paid on credit card interest; \$3,590.08 in fines and penalties paid to the IRS;
23 and \$1,998.00 in interest payments. Humanistic FFA could not provide documentation for 81
24 miscellaneous expenses totaling \$100,792.55, credit card advances of \$66,533.66, and credit
25 card purchases in the amount of \$29,930.25. DPSS had overpaid \$154,712.00 to Humanistic
26 FFA. Respondent could not account for \$58,820.33 that was transferred from the business
27 account of Humanistic FFA to Respondent's personal account. On May 21, 2007, the Riverside
28 County District Attorney's Office initiated an investigation.

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2. Ordering Brenda Marie Rees to pay the Board of Behavioral Sciences the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: May 19, 2016

Kim Madsen

KIM MADSEN
Executive Officer
Board of Behavioral Sciences
Department of Consumer Affairs
State of California
Complainant

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