

BEFORE THE
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:)
SOOKYUNG CHANG, Ph.D.) Case No. 600 2015 000288
Psychologist License No. PSY 9462) OAH No. 2017030378
Respondent.)

DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the California Board of Psychology as the Decision in the above-entitled matter, except that, pursuant to provisions of Government Code section 11517(c)(2)(C), the ORDER is hereby modified for technical reasons as follows:

1. Paragraph #1 of the ORDER, appearing on page 14 of the Proposed Decision, is modified to read as follows:

Psychologist License Number PSY 9462 issued to respondent Sookyung Chang is revoked.

The remainder of the Proposed Decision of the Administrative Law Judge, including the Order, is not amended, modified, or otherwise altered.

The Decision shall become effective on December 20, 2017.

IT IS SO ORDERED November 20, 2017.



STEPHEN PHILLIPS, J.D., Psy.D.
PRESIDENT
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS

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Psychologist License No. PSY 9462,

Respondent.

Case No. 600-2015-000288

OAH No. 2017030378

PROPOSED DECISION

Chantal M. Sampogna, Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH), heard this matter on September 25 through 28, 2017, in Los Angeles, California.

Claudia Ramirez, Deputy Attorney General, represented Antonette Sorrick (complainant), Executive Officer of the Board of Psychology (Board), Department of Consumer Affairs, State of California.

Kenneth D. Sisco, Attorney at Law, represented Sookyung Chang (respondent), who was not present.

Oral and documentary evidence was received. The record was closed and the matter submitted for decision at the conclusion of the hearing.

SUMMARY

Complainant alleges that respondent's Psychologist License number PSY 9462 should be revoked based on respondent's gross negligence, repeated negligent acts, dishonest and fraudulent acts, violation of rules of professional conduct and the laws and regulations governing the practice of psychology, and respondent's unprofessional conduct, and that respondent should be ordered to pay reasonable costs. Respondent admitted some of complainant's factual allegations but denied others, and offered evidence of mitigation. As discussed below, respondent's license shall be revoked.

FACTUAL FINDINGS

1. Complainant filed the Accusation in her official capacity. Respondent timely filed a notice of defense.

2. On July 18, 1986, the Board issued Psychology License number PSY 9462 to respondent. Respondent's license was in full force and effect at all relevant times, and will expire on December 31, 2017, unless renewed.

Respondent's Psychologist-Client Relationship with J.S.

3. In 2007, J.S. and his wife, H.S., sought marital counseling services from respondent.¹ At that time, J.S. and H.S. were considering divorce. J.S. and H.S. wanted support with the division of their assets, and with some disagreements which were causing emotional strain on their relationship, including the following: at the time they sought counseling, J.S. was having an extramarital relationship with his then girlfriend; J.S. had a propensity to loan and give large sums of money to friends; and J.S. had recently loaned this girlfriend \$10,000 to put toward her house payments.

4. A. Respondent provided psychological, psychotherapeutic, and mediation services to J.S. and H.S. between May and August 2007. During these sessions, respondent mediated an agreement between J.S. and H.S. about the division of their assets into separate property, and provided psychological counseling regarding their option of divorce, which J.S. and H.S. decided against. Though J.S.'s financial gifts and loans to others, and his maintenance of an extramarital affair, caused strain between J.S. and H.S., the division of their assets sufficiently addressed H.S.'s concerns that J.S. was using and depleting her assets. During these sessions, both J.S. and H.S. disclosed their property assets; respondent learned that as of August 2007, J.S. owned assets totaling \$2,960,000, and H.S. owned assets totaling \$2,920,000.

B. The marital counseling and division of assets improved J.S. and H.S.'s marital relationship; they became friendlier with each other and more accepting of their separate lives. The psychotherapeutic work J.S. and H.S. did on how they communicate with each other and how they would live their separate lives resolved their question about divorce. At the end of the counseling, both J.S. and H.S. decided they did not want to divorce, though

¹ The Board's statute of limitations for filing an Accusation is three years from the date the Board discovered the act or omission providing grounds for discipline, or seven years after the act or omission occurred, whichever occurs first. (Gov. Code, § 11503; Bus. & Prof. Code, § 2960.05, subd. (a).) The Board discovered respondent's acts on or about April 16, 2015, and filed its Accusation on December 13, 2016; the Board filed the Accusation within 20 months, less than three years (April 16, 2018) from the date the Board discovered respondent's acts or omissions. Acts or omissions which occurred prior to December 13, 2009, seven years prior to December 13, 2016, are outside of the statute of limitations.

J.S. continued to maintain his relationship with his girlfriend for approximately one year. J.S. and H.S. continue to live in the same house, and see each other most often in the morning but otherwise do not spend time together or communicate much about their personal or financial lives.

Respondent's Development and Maintenance of Multiple Relationships with J.S.: Events Occurring Outside the Statute of Limitations²

5. During and immediately subsequent to J.S.'s and H.S.'s psychologist-client relationship with respondent, respondent began developing a separate friendship with J.S. which provided respondent an opportunity for personal observation of J.S.'s property assets. While J.S. and H.S. received professional services from respondent, J.S., H.S., and respondent spent a day together and visited a cabin J.S. owned and had built with his brother in 2004, in Hemet, California. It was a large, four-bedroom cabin, with a large kitchen and recreation area, and two lofts, sleeping approximately 20 people.

6. Between 2007 and December 13, 2009, respondent and J.S. spent time together approximately once or twice per month. They went to bookstores, attended Buddhist events, and attended concerts together. In addition, respondent included J.S. in an aspect of her business by working with J.S. to develop spatial-visual psychological testing materials, and included him in her efforts to place some of the approximately 30 malamute husky dogs she owned into an animal shelter in Kern County, California. Early on, this relationship between J.S. and respondent stressed J.S. and H.S.'s marriage. At one time, H.S. called and spoke with J.S., confronting J.S. about this relationship and asking respondent why she made phone calls to J.S. but never to her. This conversation became an argument and ended abruptly. Respondent considered H.S. "crazy" for becoming upset about her relationship with J.S., and took no responsibility for having developed and maintained the relationship. (Ex. 15.)

7. Respondent soon began involving J.S. in her financial life. Respondent confided in J.S. that her father was a prominent figure related to the Korean government, and that she herself had over \$2,000,000 in receivables, but was in need of cash. This information made J.S. trust that respondent would be able to pay him back if he were to provide her loans. Between 2007 and 2008, respondent asked J.S. to help her with a \$32,000 down payment on property in Kern County, to give her \$80,000 so she could pay back a personal loan, and for an additional \$40,000 loan. On one occasion, J.S. knew respondent needed money and he surprised her with \$6,000 in cash. Initially, J.S. believed respondent would pay him back, assuming it would take her approximately two years to receive the total receivables due to her. In March 2008 respondent gave J.S. a \$5,000 check, and on November 10, 2008, respondent gave J.S. a \$2,000 check, both to repay J.S. for some of these loans. J.S. attempted to deposit these checks into his own account within a week of the check dates, but both checks bounced, and other checks respondent paid to J.S. bounced, due

² Discipline is not imposed for acts occurring outside of the statute of limitations. This evidence was relevant because it established a foundation for the acts subject to discipline which occurred within the statute of limitations.

to insufficient funds. J.S. stopped expecting respondent to pay him back the money he loaned her.

Respondent's Maintenance of Multiple Relationships with J.S.: Events Occurring Within the Statute of Limitations

8. On November 30, 2011, respondent wrote and signed a promissory note to J.S. in the amount of \$210,000, acknowledging the money she had borrowed from J.S. between November 2007 and November 30, 2011, which was still outstanding. Respondent agreed to pay a monthly payment of \$1,000 per month for interest only payments and to pay off the debt through minimum principal payments of \$50,000 per year. Respondent never paid J.S. on this promissory note. Though J.S.'s total assets amount to over two million dollars, most of this wealth is invested in real property. By 2011, due to the multiple unpaid loans he had made to respondent, J.S. lacked sufficient liquid assets to, for instance, purchase a car or to put down payments on properties in which he wanted to invest.

9. During late 2011, respondent approached J.S. about buying her property in Sunland (the Sunland property), where she had her home and rented other space to tenants.³ Respondent was behind on her mortgage payments and J.S. was looking for a property investment. They agreed to a short-sale, and J.S. purchased the property for \$900,000 on February 27, 2012. J.S. and respondent came to informal and vague agreements about how, after purchase, respondent could continue to live on the Sunland property: they verbally agreed respondent could live in the main home, collect rent from other tenants, generally manage and upkeep the property, make payments to the lender or to J.S., and in exchange pay a below market value rent of \$3,500 per month. J.S. trusted respondent with these responsibilities even though she had not paid him back for his loans because they were friends, she was a psychologist (which he believed brought her credibility), and he thought she could handle the responsibilities and payments. Despite some conversations J.S. had with respondent, she failed to make payments to the lender or to J.S. for the first nine months he owned the Sunland property. At that time, J.S. was short on cash, and he eventually took a loan from H.S. to pay the missed mortgage payments on the Sunland property.

10. J.S. began eviction proceedings against respondent in December 2012. On February 23, 2015, J.S. won the eviction case and the court in that matter ordered respondent

³ The Sunland property consists of approximately eight acres of land which has three homes on it. The main home, in which respondent lived, is approximately 5400 square feet with a large, oval shaped pool, approximately 10-feet long and 30-feet wide. When she owned the Sunland property, respondent rented the other two homes, as did J.S. when he bought the property. J.S. partnered in the purchase with respondent's colleague, Seung Kim, who provided his credit score towards the purchase; J.S. and Mr. Seung took title as joint tenants. Mr. Sueng has not otherwise been involved in the property management or responsibilities.

to pay J.S. \$25,000 in owed rent and damages.⁴ Respondent moved out in April 2015. Respondent had movers detach and haul away fixtures from the home, including large French doors and stained glass windows. After respondent vacated the main home, J.S.'s son went to the property to assess any need for repair and found significant damage including numerous partially-buried dogs, litter and debris throughout the property, the stolen fixtures, and the pool, which contained black water because it was filled with dog feces.⁵

Respondent's Maintenance of Records

11. Respondent's movers placed some of her patient files and psychological testing materials in the moving van and transported them away. Neither respondent, nor anyone she assigned, observed the transporting of these files to ensure proper handling or that confidentiality of these files and materials was maintained. In addition to these patient records and psychological testing materials, respondent left approximately 100 boxes of patient files and psychological testing materials in open cardboard boxes and in file cabinets in the house; these files and testing materials contained confidential patient information, including social security numbers and prescribed medications, and were covered in rat urine and feces.

Mitigation, Rehabilitation, and Other Relevant Evidence

12. Respondent did not appear at her hearing.⁶ Respondent chose to rely on the transcript of her February 23, 2016, interview with Gregory Saeki, who at that time was a

⁴ J.S. knew respondent owed him more than \$25,000, the statutory limit in unlawful detainer proceedings, but chose this process because (a) it was less costly and he did not anticipate respondent would pay whatever award was ordered, and (b) if successful it would effectuate eviction. Respondent has never paid the any part of the \$25,000 court order for rent owed.

⁵ While respondent lived at the property, Animal Care and Control investigated her care of her dogs, found fifteen living dogs (which it removed) and two dead dogs, and planned on filing animal abuse charges against respondent.

⁶ Respondent filed a motion for a continuance on September 13, 2017, which OAH denied. At the beginning of the hearing, Mr. Sisco made an oral request for a motion to continue, citing the same reasons provided in respondent's written motion: (a) respondent's parents were elderly and ill and living in South Korea, and, given the threat of nuclear war, respondent needed to go to South Korea to handle her parents' affairs and bring them to the United States; and (b) respondent's own personal stress due to the Accusation left her unable to assist in her defense. At no time did respondent present any evidence supporting these claims. Notably, her parents' age and health was a reason she provided for abandoning her client files when she moved from the Sunland property main home. Respondent's request was without merit – she failed to establish that any matters she wished to address could not have waited three days for her to attend her hearing, and she failed to establish any inability to assist in her defense.

Health Quality Investigator with the Department. Respondent also relied on her evidence of mitigation and rehabilitation, comprised of her curriculum vitae and the testimony of two character witnesses, Chul Jo, a social worker, and Samuel Cheungfai Chan, M.D., J.D, both work colleagues.

A. In her interview with Investigator Saeki, respondent admitted to developing a multiple relationship with J.S. and to abandoning patient records and psychological testing materials. Though respondent admitted she had engaged in a multiple relationship with J.S., she denied having provided him or H.S. with psychological services, claiming she only provided him professional services related to marital asset mediation. Respondent acknowledged asking for, and receiving, financial loans from J.S., and asking J.S. to buy her home and allow her to remain living in her home. She believes herself to be the victim in this relationship with J.S., and that J.S. took her home from her.

B. Respondent's statements in her interview with Investigator Saeki were inconsistent. For example, respondent claimed that she only offered mediation services to J.S., and that these services were not provided as professional psychological services. However, marital asset mediation is a forensic psychologic service and is regulated by respondent's licensure. (See Factual Finding 13.A.) Respondent's assertion that she only provided mediation services to J.S. confirms, rather than disproves, respondent's provision of psychological services to J.S. Further inconsistencies are found in respondent's statements regarding the Sunland property. J.S. denied ever signing or agreeing to a quitclaim deed. J.S.'s testimony throughout the hearings was consistent, probable, and is found to be reliable and credible. In her statements to Investigator Saeki, respondent acknowledged she had no documentation supporting her claim to having a quitclaim deed with J.S., because he refused to sign such a document, but respondent also stated that she had a quitclaim deed which J.S. had signed. Respondent proffered to a court of law in the unlawful detainer matter a quitclaim deed which failed to name her colleague Mr. Kim as an owner, and in which she declares there was a written lease agreement between she and J.S.; however, respondent also asserted to Investigator Saeki, and argued in her defense in this matter, that there was no basis for an order against her to pay owed rent because there was never such a rental agreement between her and J.S. Further, and for reasons this ALJ is not relying on, the court in the unlawful detainer matter found the quitclaim deed to be falsified, a material fact, but respondent did not disclose this fact to Investigator Saeki. Based on respondent's inconsistent statements, withholding of material information during her interview, and the unreasonableness of her statements to Investigator Saeki, respondents statements to Investigator Saeki asserting J.S. signed a quitclaim deed, and respondent's proffered quitclaim deed, are found to be falsified. Respondent's willingness to provide false and misleading statements in her unlawful detainer matter, and in defense of her license, demonstrate her dishonesty and casts strong doubt on her credibility.

C. Respondent has over 40 years of experience as a psychologist and is well trained and knowledgeable in her field. Both character witnesses knew respondent in her professional capacity but were not familiar with the Accusation allegations, other than the allegations that respondent failed to properly maintain client records. Mr. Jo had lent

respondent \$5,000 approximately 10 years ago, and this loan remained unpaid. These witnesses characterized respondent as fair and strict.

Standard of Care

13. Cheri Adrian, Ph.D., testified as an expert in clinical and forensic psychology and provided information about psychologists' ethical and legal requirements and the standard of care to which a licensed psychologist is held.

A. When a psychologist performs any professional service relying on psychological knowledge and skill, be it mediation (a form of forensic psychology), psychotherapy, or otherwise, it is assumed she is doing so as a professional and is regulated by her licensure. The disparity in power that arises in a psychologist-client relationship derives from the fact that the psychologist is the professional providing help to the client. The psychologist can ask the client to reveal anything, and the nature of the relationship is that the client does not ask, nor is the psychologist to reveal, the psychologist's own private information. This renders the patient vulnerable to undue influence generally, especially if the psychologist were to develop a multiple relationship with the client.

B. A multiple relationship occurs between a psychologist and a client when a psychologist is in a professional role with a client and at the same time is in another role with the same person. A psychologist must refrain from entering into a multiple relationship if the multiple relationship could reasonably be expected to impair the psychologist's objectivity, competence, or effectiveness in performing his or her functions as a psychologist, or otherwise risks exploitation or harm to the person with whom the professional relationship exists. If a psychologist finds that, due to unforeseen factors, a potentially harmful multiple relationship has arisen, the psychologist must take reasonable steps to resolve it with due regard for the best interests of the affected person and maximal compliance with the Guidelines.

C. The Guidelines provide that when assessing whether a psychologist has caused harm to a client, or placed the client at risk of harm, the client's experience is taken as true unless proven otherwise. The multiple relationship between respondent and J.S. began and developed during and immediately after respondent provided J.S. with professional psychological services, events outside of the statute of limitations. However, respondent had an ongoing duty to J.S. to assess this multiple relationship for harm and exploitation, or potential harm and exploitation, from December 13, 2009, onward. The question is whether the professional relationship between respondent and J.S., as it occurred within the statute of limitations, made J.S. vulnerable to exploitation or harm after the professional services ended, and whether respondent took advantage of the vulnerability to serve her own needs at J.S.'s expense. Respondent's acts, as set forth in Factual Findings 3 through 12, violated both ethical and legal standards and were an extreme departure from the standard of care. Respondent's behavior was repeated, lacked integrity, was dishonest, and involved substantial amounts of money, falsifying documents in a court of law, and failing to maintain and secure the confidentiality of, and abandoning patient records and psychological testing materials. Though Dr. Adrian did not find that respondent had destroyed and stolen J.S.'s

property, had respondent done so, this, too, would be an extreme departure from the standard of care.

Prior Discipline

14. On November 8, 2012, in *Citation Against: Chang, Sookyung, Ph.D.*, citation number 2011214086, the Board issued a citation against respondent for failing to maintain professional oversight and supervision of employees, and for failing to properly maintain confidentiality and privacy of patient records. The Board issued an order of abatement requiring respondent to read the Board's laws and regulations and to familiarize herself with the Board's laws and principles of ethical standards. Respondent was required to sign a statement under penalty of perjury attesting that she had read and fully understood these materials.

Costs of Investigation and Enforcement

15. Pursuant to Business and Professions Code section 125.3, complainant requested costs of investigation and enforcement in the total amount of \$33,115.50. This amount consists of costs incurred directly by the Bureau (\$3,654.00), as well as costs incurred by the Office of the Attorney General and for which the Board has been, or will be, billed (\$29,461.50).

16. At the hearing, complainant introduced a Certification of Costs of Investigation and Enforcement (Certification) signed by Ken Buscarino, Supervising Board Investigator in support of the costs incurred directly by the Board. The Certification indicates the Board incurred costs in the amount of \$3,654.00 for 12 hours of investigative services conducted between July 2015 and June 2017, and 14 and one-half hours of expert reviewer services conducted between February and June 2016. This amount is based on the investigators' rates of \$123 and \$124 per hour, and the expert's rate of \$150 per hour. The Certification specified the work conducted including interviews, report writing, travel, and record review.

17. Complainant also introduced a Certification of Prosecution Costs: Declaration of Claudia Ramirez (Declaration), which requests costs in the amount of \$29,461.50. Attached to the Declaration is a printout of a Matter Time Activity by Professional Type, which describes tasks performed by the Office of the Attorney General through August 29, 2017, amounting to a sum of \$18,581.50 for which the Board has been billed, and Ms. Ramirez's good faith estimate that 64 additional attorney hours will be billed, which would amount to an additional \$10,880 to be billed, with a total sum of \$29,461.50 of billed and estimated prosecution costs. At hearing, no additional evidence was submitted of the actual costs for that time period; those additional costs are, therefore, disallowed.

18. Costs of investigation, enforcement, and prosecution in the total amount of \$22,235.50 are reasonable in light of the issues involved in this matter.

LEGAL CONCLUSIONS

1. Complainant bears the burden of proof because it seeks to discipline respondent's license. The standard of proof is clear and convincing evidence to a reasonable certainty. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 855-856.)

2. The Board administers the Psychology Licensing Law. (Bus. & Prof. Code, §§ 2901, 2920.)⁷

3. The practice of psychology in California affects the public health, safety, and welfare and is subject to regulation and control in the public interest to protect the public from the unauthorized and unqualified practice of psychology and from unprofessional conduct by persons licensed to practice psychology. (§ 2900.)

4. Protection of the public is the Board's highest priority in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. (§ 2920.1.)

Respondent's Psychologist-Client Relationship with J.S.

5. The practice of psychology includes providing psychological services to an individual, which involves the following: application of psychological principles, methods, and procedures of understanding and influencing behavior, such as the principles pertaining to motivation, emotions, and interpersonal relationships; the methods and procedures of counseling, psychotherapy, and behavior modification; and of constructing tests, for example, of mental abilities and aptitudes. The application of these principles and methods includes assessment and intervention to increase effective functioning of individuals and groups. Psychotherapy means the use of psychological methods in a professional relationship to assist a person or persons to acquire greater human effectiveness or to modify feelings, conditions, attitudes, and behaviors that are emotionally, intellectually, or socially ineffectual or maladaptive. (§ 2903)

6. When engaged in any professional psychological activity, a psychologist must at all times and under all circumstances identify herself as a psychologist. (Cal. Code Regs., tit. 16, § 1396.4.)

7. As provided in section 2903, respondent provided professional clinical and forensic psychological services to J.S., when she provided J.S. and H.S. marital and marital asset counseling and mediation services focused on resolving property, communication, and relationship disputes. (Factual Findings 3-4.) Respondent created a psychologist-client

⁷ All further statutory references are to the Business and Professions Code unless otherwise noted.

relationship with J.S. California Code of Regulations, title 16, section 1396.4, required respondent to at all times during this service provision identify herself as a psychologist, and her current attempts to deny this relationship are without merit.

Gross Negligence, Repeated Negligent Acts, and Dishonest Acts

8. The Board may revoke the license of any licensee if the licensee has committed unprofessional conduct which includes the following:

[¶] ... [¶]

(i) Violating any rule of professional conduct promulgated by the board and set forth in regulations duly adopted under this chapter.

(j) Being grossly negligent in the practice of his or her profession.

(k) Violating any of the provisions of this chapter or regulations duly adopted thereunder. [¶] ... [¶]

(n) The commission of any dishonest, corrupt, or fraudulent act. [¶] ... [¶]

(r) Repeated acts of negligence.

(§ 2960.)

9. Gross negligence is defined as “the want of even scant care or an extreme departure from the ordinary standard of conduct.” (*Cooper v. Board of Medical Examiners* (1975) 49 Cal.App.3d 931, 941; *Franz v. Board of Medical Quality Assurance* (1982) 31 Cal.3d 124, 138; *Gore v. Board of Medical Quality Assurance* (1980) 110 Cal.App.3d 184, 196.)

10. Cause exists under Business and Professions Code section 2960, subdivision (j), to revoke respondent’s license because she was grossly negligent in the practice of her profession. (Factual Findings 8-11, 13.)

11. Cause exists under Business and Professions Code section 2960, subdivision (r), to revoke respondent’s license because she committed repeated negligent acts. (Factual Findings 8-10, 13.)

12. Cause exists under Business and Professions Code section 2960, subdivision (n) to revoke respondent’s license because she engaged in dishonest, corrupt, and fraudulent behavior in her financial dealings with J.S. (Factual Findings 8-10, 13.)

Patient Records and Psychological Testing Materials

13. The confidential relations and communications between psychologist and client are privileged. (§ 2918.)

14. A licensed psychologist must retain a patient's health service records for a minimum of seven years from the patient's discharge date. (§ 2919.)

15. A psychologist must limit access to psychological tests or other assessment devices to persons with professional interests who will safeguard their use. (Cal. Code Regs., tit. 16, § 1396.3.)

16. A patient is entitled to inspect patient records upon presenting to a psychologist a written request for those records upon payment of reasonable costs within 15 days of the psychologist receiving the request. (Health & Saf. Code, §§ 123105, subd. (a)(7), and 123110, subs. (a), (b), and (i).)

17. A provider of health care shall not disclose medical information regarding a patient of the provider without first obtaining an authorization, except as provided by statute. (Civ. Code, § 56.10, subd. (a).)

18. An individual has a right of access to inspect and obtain a copy of protected health information about the individual as proscribed by law. (45 C.F.R. § 164.524.)

Professional Conduct: Ethical Standards and Record-Keeping Guidelines

19. The Board has established the American Psychological Association (2002 and 2010) Ethical Principles of Psychologists and Code of Conduct (Standards) as its standards of ethical conduct relating to the practice of psychology. The Board must apply these standards as the accepted standard of care in all Board enforcement policies and disciplinary case evaluations. (§ 2936.)

20. The Standards provide that a psychologist should do the following: take reasonable steps to avoid harming their clients and to minimize harm where it is foreseeable and unavoidable (Standard 3.04); refrain from entering into a multiple relationship if the multiple relationship could risk exploitation or harm to the person with whom the professional relationship exists; if a psychologist finds that, due to unforeseen factors, a potentially harmful multiple relationship has arisen, the psychologist should take reasonable steps to resolve it with due regard for the best interests of the affected person and maximal compliance with the Guidelines and Code (Standard 3.05); not exploit persons over whom they have evaluative or other authority such as a client (Standard 3.08); maintain the psychologist's primary obligation and take reasonable precautions to protect confidential information obtained through or stored in any medium (General Principal E; Standard 4.01); only disclose confidential information with the appropriate consent of the client (Standard 4.05); create, maintain, store, and dispose of records and data relating to their professional and scientific work in order to ensure compliance with law (Standard 6.01); maintain

confidentiality in creating, storing, accessing, transferring, and disposing of records under their control (Standard 6.02); make reasonable efforts to maintain the integrity and security of test materials, such as instruments and test questions and stimuli, and other assessment techniques consistent with law and in a manner that permits adherence to the Guidelines and Code (Standard 9.11.)

21. The American Psychologist Association (2007) Record-Keeping Guidelines provide that a psychologist should do the following: have responsibility for maintaining and retaining their records and maintaining control over clients' records in accordance with the Guidelines, Standard 6.01 (Record-Keeping Guideline 1); take reasonable steps to establish and maintain the confidentiality of information arising from service delivery and develop procedures to protect the physical record from inadvertent or unauthorized disclosure (Record-Keeping Guideline 3); organize and maintain records to ensure their accuracy and to facilitate their use by the psychologist and others with legitimate access to them (Record-Keeping Guideline 5); take appropriate steps to protect records from unauthorized access, damage, and destruction by limiting access to the records to safeguard against physical breaches of the confidentiality of the information, and by keeping paper records in a secure manner in safe locations where they may be protected from damage and destruction (Record-Keeping Guideline 6); and strive to be aware of applicable laws and regulations and to retain records for the period required by legal, regulatory, institutional, and ethical requirements (Record-Keeping Guideline 7).

22. Cause exists under Business and Professions Code section 2960, subdivision (i), to revoke respondent's license because respondent violated the American Psychological Association (2002 and 2010) Ethical Principles of Psychologists and Code of Conduct, Ethical Standards 3.04, 3.05, 3.08, 4.01, 4.05, 6.01, 6.02, and 9.11, and the American Psychological Association (2007) Record-Keeping Guidelines, Guidelines 1, 3, 5, 6, and 7, when she engaged in a multiple relationship with respondent, conducted multiple and repeated acts of gross negligence which caused and created the risk of harm to J.S., and failed to maintain the confidentiality of patient records and psychological testing materials as required by federal and state laws and regulations. (Factual Findings 5-11, 13.)

23. Cause exists under Business and Professions Code, section 2960, subdivision (k), to revoke respondent's license because respondent violated the following laws and regulations governing the practice of psychology: sections 2903 and 2906, subdivisions (i), (j), (k), (n), and (r); Civil Code, section 56.10; Code of Federal Regulation, title 45, part 164.502; and California Code of Regulations, title 16, section 1396.3. (Factual Findings 5-11, 13.)

24. Cause exists under Business and Professions Code, section 2960, to revoke respondent's license because respondent's multiple relationship with J.S., her related and repeated gross negligence, and her mishandling of patient records and psychological testing materials, constitute unprofessional conduct. (Factual Findings 5-11, 13.)

25. A. Respondent was grossly and repeatedly negligent, and demonstrated an extreme departure from the standard of care, when she maintained a multiple relationship

with J.S. (Factual Findings 5-13.) Respondent developed her multiple relationship with J.S. during a period of time outside of the statute of limitations. However, from December 13, 2009 forward, respondent exploited the very challenges for which J.S. sought her professional assistance. (Factual Findings 8- 13.) As respondent's debt to J.S. accumulated, she failed to take reasonable steps to resolve the harm she was causing J.S. and failed to ensure her maximal compliance with the Standards.

B. Respondent was grossly and repeatedly negligent in her utter disregard of her confidential patient files.

C. Respondent provided false evidence in court when defending herself against J.S.'s rent claims. This act and her acts towards J.S. were dishonest and fraudulent, and constituted unprofessional conduct.

D. Respondent's years of experience and training as a psychologist do not mitigate against her behavior or the harm she caused J.S. Rather, they, together with her discipline for citation number 2011214086, demonstrate all the more strongly that she should have known she was violating the Psychology Licensing Law. The evidence from respondent's character witnesses also do not establish mitigation or rehabilitation – these witnesses knew little to nothing of respondent's behavior at issue, and Mr. Jo provided his own example of respondent failing to repay a \$5,000 loan he had made to her. Based on the foregoing, respondent's psychologist license shall be revoked.

Award of Costs

26. In any order issued in resolution of a disciplinary proceeding, at the request of the Board, the Administrative Law Judge may direct the licentiate found to have committed a violation to pay a sum not exceed the reasonable costs of investigation and enforcement. A certified copy of the actual costs, signed by the Board or its designated representative, is 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. (Bus. and Prof. Code, § 125.3, subds. (a), (c); see Cal. Code Regs., tit. 1, § 1042, subd. (b).)

27. Factors to be considered in determining the reasonableness of the costs sought pursuant to Business and Professions Code, section 125.3 include: the licentiate's success in getting the charges dismissed or reduced; the licentiate's subjective good faith belief in the merits of his or her position; whether the licentiate raised a colorable challenge to the proposed discipline; the licentiate's financial ability to pay; and whether the scope of the investigation was appropriate in light of the alleged misconduct. (*Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, 45.)

28. The declaration signed by Ms. Ramirez and the certificate signed by Mr. Buscarino constitute prima facie evidence of the reasonableness of the costs incurred by the Board, in the amount of \$22,235.50. (Bus. & Prof., § 125.3, subd. (c).) (Factual Findings 15-18.) Reasonable costs of investigation and prosecution may be recovered under section

125.3, which also allows an estimate of costs to be used "where actual costs are unavailable." Although there was an estimate of additional costs to be incurred before the hearing in this matter in the amount of \$10,880 (see Exhibit 26 and Factual Finding 17), complainant did not establish why she could not submit evidence of the actual costs incurred for that period of time. Without such evidence, an estimate is not permitted. The amount of costs to be recovered from respondent is therefore \$22,235.50. (See Factual Findings 15-18.) Respondent failed to rebut this evidence. Respondent has not succeeded in getting the charges reduced or dismissed. While respondent's counsel raised colorable challenges to complainant's evidence, respondent did not present evidence disputing the allegations. Though one of the main issues in this matter was respondent's failure to repay significant financial loans, evidence was not presented about respondent's actual finances or her ability to repay reasonable costs. The scope of the investigation was appropriate in light of respondent's significant and ongoing misconduct. Costs in the total amount of \$22,235.50 are reasonable and are awarded as set forth in the Order below.

ORDER

1. Registered Psychologist License Number PSY 9462 issued to respondent Sookyung Chang is revoked.

2. Respondent shall pay \$22,235.50 to the Board of Psychology, in accordance with a payment plan satisfactory to the Board that is consistent with this decision and respondent's ability to pay.

DATED: October 30, 2017

DocuSigned by:
Chantal M. Sam Pogna
CHANTAL M. SAMPOGNA
Administrative Law Judge
Office of Administrative Hearings

1 KAMALA D. HARRIS
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 CLAUDIA RAMIREZ
Deputy Attorney General
4 State Bar No. 205340
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, California 90013
6 Telephone: (213) 897-5678
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF PSYCHOLOGY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 600-2015-000288

13 SOOKYUNG CHANG, Ph.D.
P.O. Box 761250
Los Angeles, CA 90076-1250

A C C U S A T I O N

14 Psychologist License No. PSY 9462,
15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

- 19 1. Antonette Sorrick ("Complainant") brings this Accusation solely in her official
20 capacity as the Executive Officer of the Board of Psychology, Department of Consumer Affairs.
- 21 2. On or about July 18, 1986, the Board of Psychology ("Board") issued Psychologist
22 License Number PSY 9462 to Sookyung Chang, Ph.D. ("Respondent"). The Psychologist
23 License was in full force and effect at all times relevant to the charges brought herein and will
24 expire on December 31, 2017, unless renewed.
- 25 3. On November 8, 2012, in *Citation Against: Chang, Sookyung, Ph.D.*, Citation No.
26 2011214086, Respondent was issued a citation for failing to maintain professional oversight and
27 supervision of employees and failing to properly maintain confidentiality and privacy of patient
28 records. The Board also issued an order of abatement wherein Respondent was ordered to read

1 California Board of Psychology Laws and Regulations and familiarize herself with Business and
2 Professions Code section 2960, subdivision (l), and American Psychological Association (2002
3 and 2010) Ethical Principles of Psychologists and Code of Conduct, Ethical Standards 4.01 and
4 6.01. Respondent was also ordered to provide a signed statement under penalty of perjury that
5 she had read and fully understood the foregoing noted reading material.

6 JURISDICTION

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

10 5. Section 2905 of the Code states:

11 "The practice of psychology shall be as defined as in Section 2903, any existing statute in
12 the State of California to the contrary notwithstanding."

13 6. Section 2903 of the Code states:

14 "(a) No person may engage in the practice of psychology, or represent himself or herself to
15 be a psychologist, without a license granted under this chapter, except as otherwise provided in
16 this chapter. The practice of psychology is defined as rendering or offering to render to
17 individuals, groups, organizations, or the public any psychological service involving the
18 application of psychological principles, methods, and procedures of understanding, predicting,
19 and influencing behavior, such as the principles pertaining to learning, perception, motivation,
20 emotions, and interpersonal relationships; and the methods and procedures of interviewing,
21 counseling, psychotherapy, behavior modification, and hypnosis; and of constructing,
22 administering, and interpreting tests of mental abilities, aptitudes, interests, attitudes, personality
23 characteristics, emotions, and motivations.

24 "(b) The application of these principles and methods includes, but is not restricted to:
25 assessment, diagnosis, prevention, treatment, and intervention to increase effective functioning of
26 individuals, groups, and organizations.

27 "(c) Psychotherapy within the meaning of this chapter means the use of psychological
28 methods in a professional relationship to assist a person or persons to acquire greater human

1 effectiveness or to modify feelings, conditions, attitudes, and behaviors that are emotionally,
2 intellectually, or socially ineffectual or maladaptive.”

3 7. Section 2936 of the Code states:

4 “The board shall adopt a program of consumer and professional education in matters
5 relevant to the ethical practice of psychology. The board shall establish as its standards of ethical
6 conduct relating to the practice of psychology, the ‘Ethical Principles of Psychologists and Code
7 of Conduct’ published by the American Psychological Association (‘APA’). Those standards
8 shall be applied by the board as the accepted standard of care in all licensing examination
9 development and in all board enforcement policies and disciplinary case evaluations.

10 “...”

11 8. Section 2960 of the Code states:

12 “The board may refuse to issue any registration or license, or may issue a registration or
13 license with terms and conditions, or may suspend or revoke the registration or license of any
14 registrant or licensee if the applicant, registrant, or licensee has been guilty of unprofessional
15 conduct. Unprofessional conduct shall include, but not be limited to:

16 “... ”

17 “(h) Willful, unauthorized communication of information received in professional
18 confidence.

19 “(i) Violating any rule of professional conduct promulgated by the board and set forth in
20 regulations duly adopted under this chapter.

21 “(j) Being grossly negligent in the practice of his or her profession.

22 “(k) Violating any of the provisions of this chapter or regulations duly adopted thereunder.

23 “... ”

24 “(n) The commission of any dishonest, corrupt, or fraudulent act.

25 “... ”

26 “(r) Repeated acts of negligence.”

27 9. Section 2918 of the Code states:

28 “The confidential relations and communications between psychologist and client shall be

1 privileged as provided by Article 7 (commencing with Section 1010) of Chapter 4 of Division 8
2 of the Evidence Code.”

3 10. Section 2919 of the Code states:

4 “A licensed psychologist shall retain a patient’s health service records for a minimum of
5 seven years from the patient’s discharge date. If the patient is a minor, the patient’s health service
6 records shall be retained for a minimum of seven years from the date the patient reaches 18 years
7 of age.”

8 11. California Code of Regulations, title 16, article 8, section 1396.3 states:

9 “A psychologist shall not reproduce or describe in public or in publications subject to
10 general public distribution any psychological tests or other assessment devices, the value of which
11 depends in whole or in part on the naivete of the subject, in ways that might invalidate the
12 techniques; and shall limit access to such tests or devices to persons with professional interests
13 who will safeguard their use.”

14 12. California Code of Regulations, title 16, article 8, section 1396.4 states:

15 “(a) When engaged in any professional psychological activity, whether for a fee or
16 otherwise, a psychologist shall at all times and under all circumstances identify himself or herself
17 as a psychologist.

18 “(b) A psychological assistant shall at all times and under all circumstances identify himself
19 or herself to patients or clients as a psychological assistant to his or her employer or responsible
20 supervisor when engaged in any psychological activity in connection with that employment.”

21 13. Health and Safety Code section 123105, subdivision (a)(7), states:

22 “As used in this chapter:

23 “(a) ‘Health care provider’ means any of the following:

24 “... ”

25 “(7) A psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of
26 Division 2 of the Business and Professions Code.”

27 14. Health and Safety Code section 123110, subdivisions (a), (b), and (i), provides,
28 among other things, that a patient “shall be entitled to inspect patient records upon presenting to

1 the health care provider a written request for those records and upon payment of reasonable
2 clerical costs incurred in locating and making the records available” and that a patient “shall be
3 entitled to copies of all or any portion of the patient records that he or she has a right to inspect,
4 upon presenting a written request to the health care provider specifying the records to be copied,
5 together with a fee to defray the cost of copying, that shall not exceed twenty-five cents (\$0.25)
6 per page or fifty cents (\$0.50) per page for records that are copied from microfilm and any
7 additional reasonable clerical costs incurred in making the records available.” The records must
8 be transmitted within 15 days of receiving the request. Violations of this provision may result in a
9 fine and discipline for unprofessional conduct.

10 15. American Psychological Association (2002 and 2010) Ethical Principles of
11 Psychologists and Code of Conduct, General Principle E, Respect for People’s Rights and
12 Dignity, provides:

13 “Psychologists respect the dignity and worth of all people, and the rights of individuals to
14 privacy, confidentiality, and self-determination. Psychologists are aware that special safeguards
15 may be necessary to protect the rights and welfare of persons or communities whose
16 vulnerabilities impair autonomous decision making. Psychologists are aware of and respect
17 cultural, individual, and role differences, including those based on age, gender, gender identity,
18 race, ethnicity, culture, national origin, religion, sexual orientation, disability, language, and
19 socioeconomic status, and consider these factors when working with members of such groups.
20 Psychologists try to eliminate the effect on their work of biases based on those factors, and they
21 do not knowingly participate in or condone activities of others based upon such prejudices.”

22 16. American Psychological Association (2002 and 2010) Ethical Principles of
23 Psychologists and Code of Conduct, Ethical Standard 3.04, Avoiding Harm, provides:

24 “Psychologists take reasonable steps to avoid harming their clients/patients, students,
25 supervisees, research participants, organizational clients, and others with whom they work, and to
26 minimize harm where it is foreseeable and unavoidable.”

27 17. American Psychological Association (2002 and 2010) Ethical Principles of
28 Psychologists and Code of Conduct, Ethical Standard 3.05, Multiple Relationships, provides:

1 “(a) A multiple relationship occurs when a psychologist is in a professional role with a
2 person and (1) at the same time is in another role with the same person, (2) at the same
3 time is in a relationship with a person closely associated with or related to the person with whom
4 the psychologist has the professional relationship, or (3) promises to enter into another
5 relationship in the future with the person or a person closely associated with or related to the
6 person. A psychologist refrains from entering into a multiple relationship if the multiple
7 relationship could reasonably be expected to impair the psychologist’s objectivity, competence,
8 or effectiveness in performing his or her functions as a psychologist, or otherwise risks
9 exploitation or harm to the person with whom the professional relationship exists. Multiple
10 relationships that would not reasonably be expected to cause impairment or risk exploitation or
11 harm are not unethical.

12 “(b) If a psychologist finds that, due to unforeseen factors, a potentially harmful multiple
13 relationship has arisen, the psychologist takes reasonable steps to resolve it with due regard for
14 the best interests of the affected person and maximal compliance with the Ethics Code.

15 “(c) When psychologists are required by law, institutional policy, or extraordinary
16 circumstances to serve in more than one role in judicial or administrative proceedings, at the
17 outset they clarify role expectations and the extent of confidentiality and thereafter as changes
18 occur. (See also Standards 3.04, Avoiding Harm, and 3.07, Third-Party Requests for Services.)”

19 18. American Psychological Association (2002 and 2010) Ethical Principles of
20 Psychologists and Code of Conduct, Ethical Standard 3.08, Exploitative Relationships, states:

21 “Psychologists do not exploit persons over whom they have supervisory, evaluative, or
22 other authority such as clients/patients, students, supervisees, research participants,
23 and employees. (See also Standards 3.05, Multiple Relationships; 6.04, Fees and Financial
24 Arrangements; 6.05, Barter With Clients/Patients; 7.07, Sexual Relationships With Students
25 and Supervisees; 10.05, Sexual Intimacies With Current Therapy Clients/Patients; 10.06, Sexual
26 Intimacies With Relatives or Significant Others of Current Therapy Clients/Patients; 10.07,
27 Therapy With Former Sexual Partners; and 10.08, Sexual Intimacies With Former Therapy
28 Clients/Patients.)”

1 19. American Psychological Association (2002 and 2010) Ethical Principles of
2 Psychologists and Code of Conduct, Ethical Standard 4.01, Maintaining Confidentiality, provides:

3 “Psychologists have a primary obligation and take reasonable precautions to protect
4 confidential information obtained through or stored in any medium, recognizing that the
5 extent and limits of confidentiality may be regulated by law or established by institutional rules or
6 professional or scientific relationship. (See also Standard 2.05, Delegation of Work to
7 Others.)”

8 20. American Psychological Association (2002 and 2010) Ethical Principles of
9 Psychologists and Code of Conduct, Ethical Standard 4.05, Disclosures, provides:

10 “(a) Psychologists may disclose confidential information with the appropriate consent of the
11 organizational client, the individual client/patient, or another legally authorized person on behalf
12 of the client/patient unless prohibited by law.

13 “(b) Psychologists disclose confidential information without the consent of the individual
14 only as mandated by law, or where permitted by law for a valid purpose such as to (1) provide
15 needed professional services; (2) obtain appropriate professional consultations; (3) protect the
16 client/patient, psychologist, or others from harm; or (4) obtain payment for services from a
17 client/patient, in which instance disclosure is limited to the minimum that is necessary to achieve
18 the purpose. (See also Standard 6.04e, Fees and Financial Arrangements.)”

19 21. American Psychological Association (2002 and 2010) Ethical Principles of
20 Psychologists and Code of Conduct, Ethical Standard 6.01, Documentation of Professional and
21 Scientific Work and Maintenance of Records, provides:

22 “Psychologists create, and to the extent the records are under their control, maintain,
23 disseminate, store, retain, and dispose of records and data relating to their professional and
24 scientific work in order to (1) facilitate provision of services later by them or by other
25 professionals, (2) allow for replication of research design and analyses, (3) meet institutional
26 requirements, (4) ensure accuracy of billing and payments, and (5) ensure compliance with law.
27 (See also Standard 4.01, Maintaining Confidentiality.)”

28 22. American Psychological Association (2002 and 2010) Ethical Principles of

1 Psychologists and Code of Conduct, Ethical Standard 6.02, Maintenance, Dissemination, and
2 Disposal of Confidential Records of Professional and Scientific Work, provides:

3 “(a) Psychologists maintain confidentiality in creating, storing, accessing, transferring, and
4 disposing of records under their control, whether these are written, automated, or in any other
5 medium. (See also Standards 4.01, Maintaining Confidentiality, and 6.01, Documentation of
6 Professional and Scientific Work and Maintenance of Records.)

7 “(b) If confidential information concerning recipients of psychological services is entered
8 into databases or systems of records available to persons whose access has not been consented
9 to by the recipient, psychologists use coding or other techniques to avoid the inclusion of personal
10 identifiers.

11 “(c) Psychologists make plans in advance to facilitate the appropriate transfer and to protect
12 the confidentiality of records and data in the event of psychologists’ withdrawal from positions or
13 practice. (See also Standards 3.12, Interruption of Psychological Services, and 10.09, Interruption
14 of Therapy.)”

15 23. American Psychological Association (2002 and 2010) Ethical Principles of
16 Psychologists and Code of Conduct, Ethical Standard 9.11, Maintaining Test Security, provides:

17 “The term test materials refers to manuals, instruments, protocols, and test questions or
18 stimuli and does not include test data as defined in Standard 9.04, Release of Test Data.

19 Psychologists make reasonable efforts to maintain the integrity and security of test materials and
20 other assessment techniques consistent with law and contractual obligations, and in a manner that
21 permits adherence to this Ethics Code.”

22 24. American Psychological Association (2007) Record Keeping Guidelines, Guideline 1,
23 Responsibility for Records, states:

24 “Psychologists generally have responsibility for the maintenance and retention of their
25 records.”

26 25. American Psychological Association (2007) Record Keeping Guidelines, Guideline 3,
27 Confidentiality of Records, states:

28 “The psychologist takes reasonable steps to establish and maintain the confidentiality of

1 information arising from service delivery.”

2 26. American Psychological Association (2007) Record Keeping Guidelines, Guideline 5,
3 Maintenance of Records, states:

4 “The psychologist strives to organize and maintain records to ensure their accuracy and to
5 facilitate their use by the psychologist and others with legitimate access to them.”

6 27. American Psychological Association (2007) Record Keeping Guidelines, Guideline 6,
7 Security, states:

8 “The psychologist takes appropriate steps to protect records from unauthorized access,
9 damage, and destruction.”

10 28. American Psychological Association (2007) Record Keeping Guidelines, Guideline 7,
11 Retention of Records, states:

12 “The psychologist strives to be aware of applicable laws and regulations and to retain
13 records for the period required by legal, regulatory, institutional, and ethical requirements.”

14 29. Section 125.3 of the Code states, in pertinent part, that the Board may request the
15 Administrative Law Judge to direct a licentiate found to have committed a violation or violations
16 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
17 enforcement of the case.

18 30. Civil Code section 56.10 provides that no provider of health care, health care service
19 plan, or contractor may disclose patient medical information without first obtaining an
20 authorization, except as provided in the statute.

21 31. Code of Federal Regulations, title 45, part 164.502, provides:

22 “(a) Standard. A covered entity or business associate may not use or disclose protected
23 health information, except as permitted or required by this subpart or by subpart C of part 160 of
24 this subchapter.”

25 “...”

26 32. Code of Federal Regulations, title 45, part 164.524, provides:

27 “(1) Right of access. Except as otherwise provided in paragraph (a)(2) or (a)(3) of this
28 section, an individual has a right of access to inspect and obtain a copy of protected health

1 information about the individual in a designated record set, for as long as the protected health
2 information is maintained in the designated record set, except for:

3 “(i) Psychotherapy notes; and

4 “(ii) Information compiled in reasonable anticipation of, or for use in, a civil, criminal, or
5 administrative action or proceeding.

6 “...”

7 “(b) Implementation specifications: requests for access and timely action.

8 “(1) Individual’s request for access. The covered entity must permit an individual to request
9 access to inspect or to obtain a copy of the protected health information about the individual that
10 is maintained in a designated record set. The covered entity may require individuals to make
11 requests for access in writing, provided that it informs individuals of such a requirement.

12 “(2) Timely action by the covered entity.

13 “(i) Except as provided in paragraph (b)(2)(ii) of this section, the covered entity must act on
14 a request for access no later than 30 days after receipt of the request as follows.

15 “(A) If the covered entity grants the request, in whole or in part, it must inform the
16 individual of the acceptance of the request and provide the access requested, in accordance with
17 paragraph (c) of this section.

18 “(B) If the covered entity denies the request, in whole or in part, it must provide the
19 individual with a written denial, in accordance with paragraph (d) of this section.

20 “(ii) If the covered entity is unable to take an action required by paragraph (b)(2)(i)(A) or
21 (B) of this section within the time required by paragraph (b)(2)(i) of this section, as applicable, the
22 covered entity may extend the time for such actions by no more than 30 days, provided that:

23 “(A) The covered entity, within the time limit set by paragraph (b)(2)(i) of this section, as
24 applicable, provides the individual with a written statement of the reasons for the delay and the
25 date by which the covered entity will complete its action on the request; and

26 “(B) The covered entity may have only one such extension of time for action on a request
27 for access.

28 “...”

1 FIRST CAUSE FOR DISCIPLINE

2 (Gross Negligence)

3 33. Respondent is subject to disciplinary action under section 2960, subdivision (j), of the
4 Code in that she was grossly negligent when she engaged in a multiple relationship with a former
5 client, J.S., which resulted in his exploitation by her, she engaged in fraudulent behavior in her
6 financial dealings with J.S., and she failed to protect and abandoned patient records and
7 psychological test materials.¹ The circumstances are as follows:

8 34. In or around 2006, J.S. and his wife sought services from Respondent. J.S. is a real
9 estate developer. The couple discussed separating and the division of their marital assets with
10 Respondent. Respondent helped them divide their assets. In the process, the couple shared
11 financial documents and information with Respondent, which included information on numerous
12 properties and investments.

13 35. Following her client relationship with J.S. and his spouse, Respondent remained in
14 contact with J.S. In or around October 2007, Respondent borrowed approximately \$300,000 from
15 J.S. Respondent used the money to buy a property in Caliente, California. Except for payment of
16 approximately \$25,000, Respondent has not repaid the loan.

17 36. In or around 2011, Respondent was going to lose her house ("Sunland property") in
18 foreclosure. In an effort to save the property, Respondent asked J.S. to buy it, to which J.S.
19 agreed. They also agreed that Respondent could remain in the house as a tenant and would pay
20 rent to J.S. Accordingly, on or about May 11, 2011, J.S. and S.K., another friend of Respondent,
21 purchased the house as joint tenants.²

22 37. In or around 2014, Respondent stopped paying rent to J.S. On November 21, 2014,
23 J.S. filed an unlawful detainer action against Respondent in order to evict her from the Sunland
24 property for nonpayment of rent. Three months later, on February 23, 2015, the court entered
25 Judgment for J.S. and against Respondent for possession of the property; forfeiture of any

26 ¹ The initials of the client's name are used to protect his right of privacy.

27 ² Respondent signed the Grant Deed on May 11, 2011. The Grant Deed was notarized on
28 February 27, 2012. The Grant Deed was recorded with the Los Angeles County Recorder's
Office on March 19, 2012.

1 leasehold interest of Respondent's in the property; \$25,000.00 in rent and holdover damages; and
2 \$590.00 in costs. The court found that the Lease to Purchase Option Agreement presented by
3 Respondent as evidence in support of her case during trial was a "complete fabrication."

4 38. On March 18, 2015, the court issued a writ of possession, which instructs a tenant to
5 move out by the end of the fifth day after the writ is served on the tenant, and that if the tenant
6 does not move out, the sheriff will remove the tenant from the rental unit and place the landlord in
7 possession of it. On or about March 21, 2015, Respondent had movers remove her belongings
8 from the Sunland property while she traveled out of the country, including patient files and
9 Highlands Ability Tests materials. However, not all of the patient files and psychological tests
10 materials were removed from the property, as the money Respondent paid to the movers was
11 insufficient to cover the removal of all of her belongings.

12 39. When she returned to the United States, Respondent was locked out of the Sunland
13 property and was unable to retrieve the rest of her belongings, including the patient files and
14 psychological test materials. Photographs shows the files and test materials are in poor condition
15 and clearly show the names of patients/clients. The records are accessible to others. As of at least
16 February 23, 2016, the date Respondent was interviewed by an investigator with the Health
17 Quality Investigation Unit, the patient files and psychological test materials were still on the
18 Sunland property. Respondent failed to provide to the investigator proof of her efforts to retrieve
19 the patient files and psychological test materials from J.S. in response to a request for such proof.

20 40. Respondent was grossly negligent as follows:

21 a. Respondent engaged in an inappropriate multiple relationship with J.S., a former
22 client, which resulted in his exploitation by her. She obtained knowledge of J.S.'s finances in her
23 role as a professional psychologist treating or mediating with him and his wife which she then
24 later used in engaging in a financial relationship with him. J.S. was made vulnerable to
25 substantial financial harm, in Respondent's accepting loans from him which she never fully paid
26 back and in her living in the home he had purchased from her without paying rent she had
27 promised to pay. J.S. was harmed from his dealings with Respondent financially and personally,
28 in the expenditure of time and effort required to pursue restitution and possession of the Sunland

1 property. There is no documentation or indication that Respondent considered the potential risks
2 prior to engaging in the financial relationship with J.S., that she evaluated whether there was
3 likely to be undue psychological influence over J.S. deriving from their professional relationship
4 at the time of their financial dealings, or that she evaluated whether the financial relationship
5 posed a substantial risk of doing damage to J.S.;

6 b. Respondent engaged in dishonest, corrupt, or fraudulent behavior in her financial
7 dealings with J.S. Respondent used the financial information she obtained from J.S. in her role as
8 a treating psychologist/mediator to exploit J.S. in asking for or accepting substantial loans from
9 him which she never fully paid back and in asking him to purchase her home and allow her to live
10 there without paying rent she had promised to pay; and

11 c. Respondent failed to protect and abandoned patient records and psychological test
12 materials, thereby compromising patient confidentiality, and did not have records available for
13 inspection or provision to patients or clients as required. She allowed the patient files and
14 psychological test materials to be transported without her supervision. She was required to secure
15 the records before leaving on her trip, or designate a responsible person to do so. She abandoned
16 the records prior to the property being locked in order to leave for a trip. Respondent made
17 inadequate efforts to retrieve the records and psychological test materials after she returned from
18 her trip.

19 d. Respondent acknowledged that the records largely contained testing materials. To the
20 extent that the records include copyrighted test materials, that would constitute an additional
21 extreme departure for failing to maintain test security.

22 41. Respondent's acts and/or omissions as set forth in paragraphs 34 through 40,
23 inclusive above, whether proven individually, jointly, or in any combination thereof, constitute
24 gross negligence pursuant to section 2960, subdivision (j), of the Code. Therefore, cause for
25 discipline exists.

26 SECOND CAUSE FOR DISCIPLINE

27 (Repeated Negligent Acts)

28 42. Respondent is subject to disciplinary action under section 2960, subdivision (r), of the

1 Code in that she committed repeated negligent acts. The circumstances are as follows:

2 43. Paragraphs 34 through 40 are incorporated by reference as if fully set forth herein.

3 44. Respondent's acts and/or omissions as set forth in paragraph 43, inclusive above,
4 whether proven individually, jointly, or in any combination thereof, constitute repeated acts of
5 negligence pursuant to section 2960, subdivision (r), of the Code. Therefore, cause for discipline
6 exists.

7 **THIRD CAUSE FOR DISCIPLINE**

8 **(Commission of Dishonest, Corrupt, or Fraudulent Act)**

9 45. Respondent is subject to disciplinary action under section 2960, subdivision (n), of
10 the Code in that she engaged in dishonest, corrupt, or fraudulent behavior in her financial dealings
11 with J.S. The circumstances are as follows:

12 46. Paragraphs 34 through 40 are incorporated by reference as if fully set forth herein.

13 47. Respondent's acts and/or omissions as set forth in paragraph 46, inclusive above,
14 whether proven individually, jointly, or in any combination thereof, constitute dishonest, corrupt,
15 or fraudulent acts pursuant to section 2960, subdivision (n), of the Code. Therefore, cause for
16 discipline exists.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Violation of Rules of Professional Conduct)**

19 48. Respondent is subject to disciplinary action under section 2960, subdivision (i), of the
20 Code in that Respondent violated American Psychological Association (2002 and 2010) Ethical
21 Principles of Psychologists and Code of Conduct, Ethical Standards 3.04, 3.05, 3.08, 4.01, 4.05,
22 6.01, 6.02, and 9.11 and American Psychological Association (2007) Record-Keeping Guidelines,
23 Guidelines 1, 3, 5, 6, and 7. The circumstances are as follows:

24 49. Paragraphs 34 through 40 are incorporated by reference as if fully set forth herein.

25 50. Respondent's acts and/or omissions as set forth in paragraph 49, inclusive above,
26 whether proven individually, jointly, or in any combination thereof, constitute breaches of the
27 American Psychological Association (2002 and 2010) Ethical Principles of Psychologists and
28 Code of Conduct and American Psychological Association (2007) Record-Keeping Guidelines,

1 Guidelines 1, 3, 5, 6, and 7 in violation of section 2960, subdivision (i), of the Code. Therefore,
2 cause for discipline exists.

3 FIFTH CAUSE FOR DISCIPLINE

4 (Violation of Laws and Regulations Governing the Practice of Psychology)

5 51. Respondent is subject to disciplinary action under section 2960, subdivision (k), of
6 the Code in that Respondent violated laws and regulations governing the practice of psychology,
7 including sections 2903, and 2960, subdivisions (i), (j), (k), (n), and (r), of the Code; California
8 Code of Regulations, title 16, article 8, section 1396.3; Civil Code section 56.10; and Code of
9 Federal Regulations, title 45, part 164.502. The circumstances are as follows:

10 52. Paragraphs 34 through 40 are incorporated by reference as if fully set forth herein.

11 53. Respondent's acts and/or omissions as set forth in paragraph 52, inclusive above,
12 whether proven individually, jointly, or in any combination thereof, constitute violations of the
13 laws and regulations governing the practice of psychology pursuant to section 2960, subdivision
14 (k), of the Code. Therefore, cause for discipline exists.

15 SIXTH CAUSE FOR DISCIPLINE

16 (Unprofessional Conduct)

17 54. Respondent is subject to disciplinary action under section 2960 of the Code for
18 unprofessional conduct. The circumstances are as follows:

19 55. Paragraphs 33 through 53 are incorporated by reference as if fully set forth herein.

20 56. Respondent's acts and/or omissions as set forth in paragraph 55, inclusive above,
21 whether proven individually, jointly, or in any combination thereof, constitute unprofessional
22 conduct pursuant to section 2960 of the Code. Therefore, cause for discipline exists.

23 PRAYER

24 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
25 and that following the hearing, the Board of Psychology issue a decision:

26 1. Revoking or suspending Psychologist License Number PSY 9462, issued to
27 Sookyung Chang, Ph.D.;

28 2. Ordering Sookyung Chang, Ph.D. to pay the Board of Psychology the reasonable costs

1 of the investigation and enforcement of this case, and, if placed on probation, the costs of
2 probation monitoring; and,

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

7 DATED: December 13, 2016



8 ANTONETTE SORRICK
9 Executive Officer
10 Board of Psychology
11 Department of Consumer Affairs
12 State of California
13 *Complainant*

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**BEFORE THE
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Decision and Order Against:)	Case No. 600 2015 000288
)	
SOOKYUNG CHANG, Ph.D.)	OAH No. 2017030378
)	
)	
Psychologist License No. PSY 9462)	
)	
Respondent.)	
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ORDER DENYING RECONSIDERATION

On November 20, 2017, the Board issued its Decision and Order in the above entitled matter, effective December 20, 2017. On or about December 15, 2017, respondent filed a Petition for Reconsideration.

Having reviewed the Petition for Reconsideration, the Board makes the following order:

The Petition for Reconsideration is DENIED. The Board's Decision and Order of November 20, 2017 shall remain as adopted.

It is so ORDERED December 29, 2017



**STEPHEN PHILLIPS, JD, PsyD
PRESIDENT
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS**