

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

21647

S. Phillip Lenski, John D. McLeod, Administrative
Law Court
2010ALJ-11-0591-AP, 2012ALJ-11-0495-AP

RECEIVED

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SC Court of Appeals

Karen A. Forman,

Appellant,

versus

South Carolina Department of Labor,
Licensing and Regulation, State Board
of Social Work Examiners,

Respondents.

RECORD ON APPEAL
Volume 2

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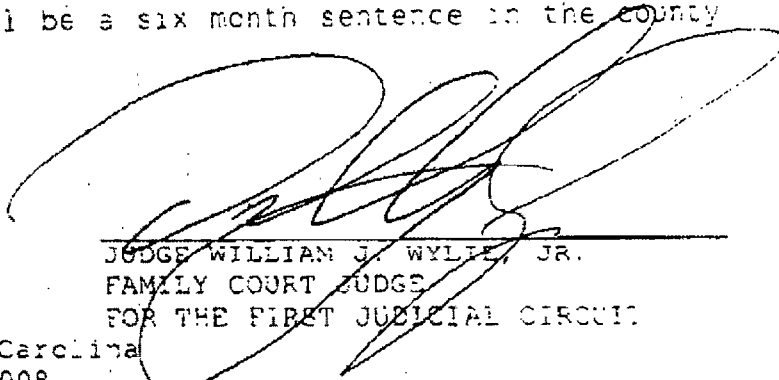
outpatient or follow up treatment or therapy or meetings is recommended for a period of 24 months following the Plaintiff's release from the inpatient treatment. This is not going to be tied to the same time frame. The Court is not going to let the Plaintiff have the contempt suspended just by being tough for a period of three months and going right back to it. This means that the Plaintiff is going to have a two year period where he has to be successful where the Plaintiff has to be successfully participating in the rehabilitation in order to avoid the six months in the county jail.

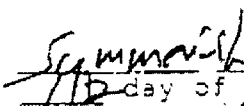
D. If the Plaintiff fails for what ever reason and he is unsuccessfully discharged from the treatment, he does not keep up with the outpatient, and by successful the Court means that the Plaintiff will follow the requirements of the program. This doesn't mean that he can be drinking and just going to the meetings, that is not going to take care of this. The Plaintiff has to be successfully participating in the programs according to the programs definition of success, what ever that may be. If the Plaintiff does this for a period of 24 months, then he will have complied and he will have successfully completed them suspending the six months that is ordered for contempt.

E. If the Plaintiff fails, then upon written proof that the Plaintiff has been terminated from the program for unsuccessful completing it, then upon the written notification a bench warrant will be issued for the Plaintiff's arrest and he will have to serve

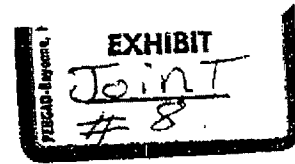
the six months sentence. That will be original contempt there will not be any purging at that point, there will not be any way to get out of it early. It will be a six month sentence in the county jail.

IT IS SO ORDERED.


JUDGE WILLIAM J. WYLIE, JR.
FAMILY COURT JUDGE
FOR THE FIRST JUDICIAL CIRCUIT

 South Carolina
12 day of January, 2008

FAILURE TO COMPLY WITH THE TERMS OF THIS ORDER MAY CONSTITUTE CONTEMPT OF COURT AND MAY BE PUNISHABLE BY A FINE, A PUBLIC WORK SENTENCE, OR BY IMPRISONMENT IN A LOCAL CORRECTIONAL FACILITY OR ANY COMBINATION THEREOF, IN THE DISCRETION OF THE COURT, BUT NOT TO EXCEED IMPRISONMENT IN A LOCAL CORRECTIONAL FACILITY FOR ONE YEAR, A FINE OF ONE THOUSAND FIVE HUNDRED (\$1,500.00) DOLLARS, A PUBLIC WORK SENTENCE NOT TO EXCEED THREE (300) HUNDRED HOURS, OR ANY COMBINATION THEREOF AS PROVIDED BY S.C. CODE ANN. 20-7-1350 (1976) (AS AMENDED)



JOINT EXHIBIT 8

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

KATHERINE M. HIGUERA,

Plaintiff,

v.

BRIAN KEITH HIGUERA,

Defendant.

IN THE FAMILY COURT OF THE
NINTH JUDICIAL CIRCUIT

CASE NO.: 2006-DR-08-1461

**AMENDED FINAL ORDER AND
DECREE OF DIVORCE**

Presiding Judge:
Date/Time of Hearing:
Plaintiff's Attorney:
Defendant's Attorney:
Court Reporter:

F.P. Segars-Andrews
January 11, 2007 at 10:30 am
Jessie J. Glenn
Grover Beau Seaton
Leah Dupree

This matter was before me at the Plaintiff's request for a Motion of Temporary Relief. The Plaintiff filed her Complaint on September 15, 2006 and appeared with her attorney as noted above. The Defendant appeared with his attorney as noted above. At the call of the hearing the parties announced to the court that they had an agreement on a final basis. Both parties were present with there respective attorney. The final agreement of the parties was published by the attorney for the Plaintiff as follows:

1. Plaintiff has sole custody of the minor child, C ■ Higuera, with supervised visitation to the Defendant by his present counselor until counselor concludes that supervised visitation shall be lifted. Upon lifting of supervised visitation, standard visitation will take effect with liberal telephone visitation at a reasonable time. Neither party shall expose the minor child to any paramour until the counselor decides that it is appropriate, nor shall there be any form of corporal punishment to the child;
2. Defendant shall not take the minor child around his brother at any period of time;

3. Plaintiff shall be entitled to the use of her maiden name of Katherine M. Knagenhjelm;
4. There shall be no alcohol or drug use in the presence of minor child;
5. The Defendant shall continue to pay child support through the Berkeley County Clerk of Court at the same amount that he has been paying in the past which is \$461.00 plus any court costs that apply, in addition to any amount that is owed for arrears;
6. Defendant shall not post any pictures or information about the Plaintiff or post any pictures or information about C ■ Higuera, the minor child on the internet and any information or pictures of the Plaintiff and minor child shall be removed immediately;
7. The parties are entitled to a divorce based on living separate and apart for a time period that is greater than one year;
8. Defendant is to provide medical and dental insurance for the minor child so long as his employment offers insurance through his employment;
9. The Defendant will sign any authorizations needed for the Plaintiff to have access to the insurance information for the minor child;
10. Defendant is allowed to make medical decisions regarding minor child only if it is an emergency;
11. Both parties have the right to review tax returns every two years to determine child support;
12. Plaintiff and Defendant will refrain from having overnight paramours, girlfriends, boyfriends and lovers around the minor child;
13. Both parties will continuously provide a separate suitable room for minor child;
14. While the minor child is with the Defendant, the Defendant will have minor child with him at all times. If the minor child is not with the Defendant during his visitation then there must be a suitable person to care for minor child. Plaintiff will not disagree to suitable person caring

for minor child so long as the Defendant provides the Plaintiff with the name and telephone number of the person who will be with the party's minor child, and any time either custodial parent/visiting parent is absence from the minor child for a time period that is greater than four hours the custodial parent/visiting parent shall have the first right of refusal to have the minor child;

15. Both parties will refrain from vulgar language and obscenity while minor child is in their presence;

16. Both parties will refrain from inappropriate conduct while minor child is in their presence;

17. Both parties will provide all employment and residential information, such as addresses and telephone numbers, and any change in income shall constitute a change in circumstances that warrant recalculating child support;

18. Neither party shall create any debt for which the other is liable for;

19. Plaintiff shall pay to the Guardian Ad Litem \$375.00 within thirty (30) days of the signing of this order and the Defendant shall pay the balance of \$165.00;

20. The Defendant shall pay to the Plaintiff a lump sum of \$7,500.00 in equal monthly payments over the next three years. This is a lump sum for alimony and attorney fees for the present case and the past case. If the Defendant is ever more than 5 days late on making the payment to the Plaintiff he shall be subject to the contempt powers of the court. There will not be any Rule to Show Cause for the past amount owed for attorney fees as it has been agreed to in this order.

The Plaintiff and Defendant testified that there was no possibility of reconciliation. The Plaintiff further testified that she and the Defendant were married on November 4, 1997, and last resided together in the county of Berkeley, had been living separate and apart for a time period that was greater than one year, and that she desired a divorce based on the grounds of living separate and apart for a period of one

year. The Plaintiff further testified that she desired to return to using her maiden name of Katherine Mildred Knagenhjelm, and was not changing her name to avoid any creditors or criminal prosecution, never been denied a passport, had never been investigated by the Department of Social Services or any agency of that nature.

The Plaintiff presented Karen Abercrombie as her corroborating witness who testified that she and the Plaintiff have been friends for several years, and that she would know if the Plaintiff and Defendant reconciled in the past year, and to her knowledge they have not. This witness further testified that she was not misleading the court to help the parties obtain a divorce.

Agreement of Parties

The court questioned both parties regarding the agreement as published, and both parties testified that the agreement was fair and equitable, in the parties best interest, understood the agreement was final and non-modifiable unless it pertains to matters effecting the minor child, and were satisfied with the services of their respective attorney. Both parties further testified that they understood that they could have had a final hearing to have the court resolve the matter for them, and testified that they wanted the court to make the agreement as a final order and move forward for a divorce based on living separate and apart for a period greater than one year. The Plaintiff further testified that she would take the child to the counselor on the days that the counselor requested to meet with the child to visit with the Defendant.

Findings of Fact

1. I find Jurisdiction and Venue is proper before this Honorable Court;
2. I find that the parties are entitled to a divorce based on living separate and apart for a time period that is greater than one year and the

above agreement as published shall be subject to the contempt powers of this court;

3. I find that there has been no cohabitation between the Plaintiff and Defendant for a time period greater than one year;
4. I find the witnesses testimony credible;
5. I find reconciliation is not possible;
6. I find that the agreement is fair and equitable and in the best interest of the parties;
7. I find that the agreement as published shall be adopted as a final order and shall be subject to the contempt powers of the court; and
8. I find that the Plaintiff desires to change her name as a result of this divorce.

Conclusions of Law

1. I Conclude that the Plaintiff is entitled to a divorce based on living separate and apart for a time period that is greater than one year;
2. I Conclude that the agreement of the parties is both fair and equitable and in the parties best interest and shall become a part of this Final Order subject to the contempt powers of the court;
3. I further Conclude that Venue and Jurisdiction is proper before this Honorable Court; and
4. I further conclude that the Plaintiff shall be entitled to return to to using her maiden name of Katherine Mildred Knagenhjelm.

Findings as a Matter of Law

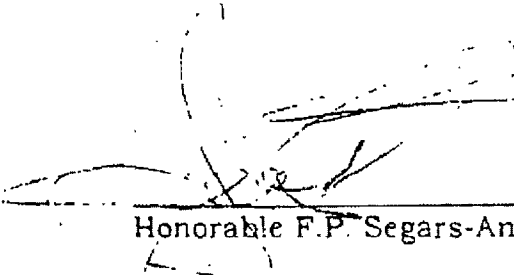
I find as a matter of law that the Plaintiff is entitled to a divorce a vinculo matrimonii on the grounds of living separate and apart from the other for a time period greater than one year, the agreement as published above is fair and equitable and shall made an order of this court and shall be subject to the contempt powers of this court, and the Plaintiff is entitled to use of her maiden name Katherine Mildred Knagenhjelm.

ORDERED, ADJUDGED and DECREED that the Plaintiff is granted a divorce a vinculo matrimonii on the grounds of living separate and apart

for a time period greater than one year, the above published agreement shall become subject to the contempt powers of this honorable court and the Plaintiff is entitled to use of her maiden name Katherine Mildred Knagenhjelm.

AND IT IS SO ORDERED!

Dorchester, South Carolina
January 12, 2007


Honorable F.P. Segars-Andrews

NOTICE CONTEMPT POWERS OF COURT ORDERS OF THE FAMILY COURTS OF SOUTH CAROLINA ARE ENFORCEABLE THROUGH THE INHERENT CONTEMPT POWERS VESTED WITH THE COURT. CONTEMPT POWERS OF A FAMILY COURT INCLUDE PUNISHABLE BY INCARCERATION FOR UP TO ONE YEAR AND/OR A \$1,500.00 FINE AND/OR COMMITMENT UPON THE PUBLIC WORKS FOR A PERIOD OF UP TO THREE HUNDRED (300) HOURS.

CN

**SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND REGULATION
BEFORE THE STATE BOARD OF SOCIAL WORK EXAMINERS**

In the Matter of:

KAREN A. FORMAN
License No. LMSW.4931

OIE # 2007-1
OIE #2007-21

Respondent.

NOTICE OF HEARING

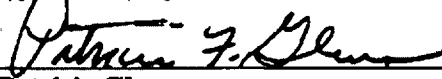
TO THE RESPONDENT ABOVE NAMED:

YOU ARE HEREBY NOTIFIED that a hearing before the Board of Social Work Examiners will be conducted in the above matter at **9:00 a.m.* on June 28, 2010**, in Room 202-02 of the Kingstree Building located at the Synergy Business Park, 110 Centerview Drive, Columbia, SC. The hearing has been set to consider the charges in the Notice of Charges attached.

FURTHER, you are notified that you may appear and present evidence on your behalf and confront and cross-examine witnesses against you. In addition, you have the right to be represented by legal counsel. The hearing will be conducted in accordance with the South Carolina Administrative Procedures Act, S.C. Code Ann. § 1-23-310, *et seq.* (1976, as amended), the Board's Practice Act, § 40-35-10, *et seq.* and the Rules and Regulations of the Board.

**SOUTH CAROLINA DEPARTMENT OF
LABOR, LICENSING & REGULATION**

**STATE BOARD OF SOCIAL WORK
EXAMINERS**



Patricia Glenn
Administrator

Columbia, South Carolina

May 19, 2010

- Hearing times are subject to change.

BEFORE THE SOUTH CAROLINA BOARD OF SOCIAL WORK EXAMINERS

In the Matter of:

KAREN A. FORMAN,
License No. SW.4931,

OIE # 2007-1 and 2007-21

Respondent.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the within Notice of Hearing upon the Respondent by depositing a copy of the same in an envelope in the United States Mail, Certified, Return Receipt Requested, properly addressed to the said person(s) hereafter named, at the address indicated below, which is the last known address for the same.

Susan K. Dunn, Esquire
PO Box 582
Charleston, SC 29402

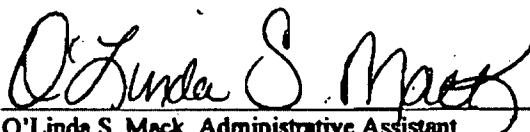
Ms. Karen A. Forman
[REDACTED]
Charleston, SC 29401

Brian Evans
[REDACTED]
Summerville, SC 29483

Katherine Knagenhjelm
[REDACTED]
Ladson, South Carolina 29426

**SOUTH CAROLINA DEPARTMENT OF
LABOR, LICENSING & REGULATION**

BOARD OF SOCIAL WORK EXAMINERS



O'Linda S. Mack, Administrative Assistant
Office of General Counsel
S.C. Department of Labor, Licensing & Regulation
Post Office Box 11329
Columbia, SC 29211-1329

Columbia, South Carolina
May 20, 2010

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Karen A. Forman

Appellant,

vs.

South Carolina Department of Labor,
Licensing, and Regulation, The State
Board of Social Work Examiners,

Respondent.

Docket No: ____-ALJ-____-____-____

NOTICE OF APPEAL

Appellant, Karen A. Forman, by and through her undersigned counsel, hereby files this notice of appeal from the attached Order (dated July 13, 2010, and first received by Appellant on July 17, 2010).

Appellant's grounds for appeal are that her rights have been prejudiced because the administrative findings, inferences, conclusions, and/or decisions are: (1) in excess of the statutory authority of the agency; (2) affected by other error of law; (3) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; and/or (4) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. Appellant reserves the right to amend or supplement the grounds for appeal in the brief required by ALC Rule 37(B)(1).

FILED

AUG 04 2010

SC ADMIN. LAW COURT

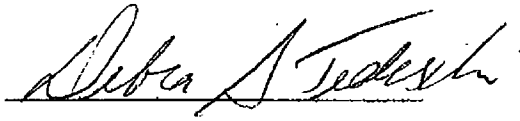
Respectfully submitted,

Karen A. Forman

Charleston, SC 29401
(843) 224-8010

By: THE TEDESCHI LAW FIRM, P.A.

(Signature on following page)



Debra S. Tedeschi

1422 Laurel St.
Columbia, SC 29201
(803) 540-3090

Attorney for Appellant

Columbia, South Carolina

Aug. 4, 2010

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Karen A. Forman

Appellant,

vs.

South Carolina Department of Labor,
Licensing, and Regulation, The State
Board of Social Work Examiners,

Respondent.

Docket No: ____-ALJ-____-____-____

CERTIFICATE OF SERVICE

I hereby certify that I am counsel for Appellant in the above-captioned matter and that on the 4th day of Aug., 2010, I served a copy of the following:

- Notice of Appeal
- Motion to Expedite and for a Stay of the Board's Order
- Request for Transcript of Record

on the below-named counsel, by depositing the same in the United States Mail, postage paid, and addressed as follows:

Christa T. Bell
Assistant General Counsel
Department of LLR
P.O. Box 11329
Columbia, SC 29221

Georgia Lewis
Assistant General Counsel
Department of LLR
P.O. Box 11329
Columbia, SC 29221

FILED

AUG 04 2010

SC ADMIN. LAW COURT

By: THE TEDESCHI LAW FIRM, P.A

(Signature on following page)
ROA 514



Debra S. Tedeschi
1422 Laurel St.
Columbia, SC 29201
(803) 540-3090

Attorney for Appellant

Columbia, South Carolina

Aug 4, 2010

THE STATE OF SOUTH CAROLINA
In the Administrative Law Court

APPEAL FROM THE SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING
AND REGULATION, BOARD OF SOCIAL WORK EXAMINERS

Docket Number 10-21 11141591-AP

Russell A. Thomas

Appellant

South Carolina Department
of Labor, Licensing and
Regulation, State Board of
Social Work Examiners

Respondent

WRIT OF HABEAS CORPUS

Georgina L. Lee,
Chief of the
Administrative Law Court
South Carolina Department of Labor,
Licensing and Regulation
200 Center Street, Suite
Columbia, South Carolina 29201
(803) 732-2372

ATTORNEYS FOR RESPONDENT

FILED

SC ADMIN LAW COURT

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STATEMENT OF ISSUES ON APPEAL

- I. WHETHER THE BOARD OF SOCIAL WORK EXAMINERS PROPERLY EXERCISED JURISDICTION WHEN IT DISCIPLINED A LICENSED SOCIAL WORKER FOR CONDUCT OCCURING WHEN THE LICENSED SOCIAL WORKER WAS LICENSED UNDER THE SOCIAL WORK EXAMINERS PRACTICE ACT.
- II. WHETHER THE BOARD OF SOCIAL WORK EXAMINERS PROPERLY EXERCISED ITS DISCRETION WHEN IT REACHED FINDINGS AND CONCLUSIONS THAT ARE SUPPORTED BY RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE ON THE RECORD.

STATEMENT OF THE CASE

The South Carolina Department of Labor, Licensing and Regulations, State Board of Social Work Examiners (hereinafter referred to as the Board) received two initial complaints from members of the public regarding a licensed Social Worker, Karen Forman. After an investigation of these initial complaints, Ms. Forman (hereinafter referred to as Appellant), was served Notice of Charges and Notice of Hearing by the Board August 19, 2009. (R.pp.9-13). The Board brought disciplinary proceedings against Appellant alleging that Appellant failed to meet Social Work professional ethics and standards of conduct in her paid private Guardian ad Litem (hereinafter referred to as GAL) work in two family court cases. On September 14, 2009, Appellant moved for the charges against her to be dismissed on the grounds that the Board lacked jurisdiction. (R.p.14). This request for dismissal was denied via email on September 15, 2009. (R.p.1).

A two-day hearing was held before the Board on June 28-29, 2010. Appellant's second request to dismiss the charges based on lack of jurisdiction was denied by the Board. (R.pp.37-38). The Board issued its Order sanctioning Appellant on July 13, 2010. (R.pp.2-5). The Board found that as licensed Social Worker, the Appellant committed professional misconduct in her work as a paid private GAL in two family court cases. The Board found a violation of S.C. Code Ann. § 40-63-110(B)(9) as a result of Appellant's violation of the Social Work principle of ethics in S.C. Code Ann. Regs. 110-20(8). The Board suspended Appellant from working as a GAL and prohibited her from all Independent (LISW) Social Work practice.¹

¹ The Board also ordered that the Appellant may only engage in supervised practice within a recognized, organized setting such as social, medical and governmental agencies. Appellant was also ordered to submit to the Board semi-annual, written reports from her supervisor(s) for a period of two (2) years from the date of this Final Order. In the instant family court cases, Appellant was a Licensed Masters Social Worker

Appellant filed the Notice of Appeal with the Administrative Law Court (ALC) on August 4, 2010. (R.pp.20-21). Appellant also filed a motion with the ALC to stay enforcement of the Board's Order and to expedite the appeal. (R.pp.27-29). The ALC granted this motion in part, allowing Appellant to continue to perform GAL work and expediting the appeal. (R.pp.6-7). The Record on Appeal was served on Appellant on September 16, 2010.

(LMSW) which requires supervised Social Work practice. The Appellant has since earned her Licensed Independent Social Worker (LISW) which includes independent, private practice.

STATEMENT OF THE FACTS

Appellant has been a licensed Social Worker for over 15 years. (R.p. 390, lines 13-22). At the time of her appointment in these two family court cases, Appellant was a Master Social Worker (LMSW). She recently became an Independent Social Worker (LISW-CP). Each of these license designations has its own education, testing requirements and practice designation. See S.C. Code Ann. §§ 40-63-20, 40-63-230, and 40-63-240.

Since 2003, Appellant has been appointed as a paid private GAL in approximately one hundred and fifty (150) cases and this has been her primary means of income. (R. p. 334, lines 9-24). The private GAL statutes in S.C. Code Ann. § 63-3-810 *et. seq.* were in effect at the time Appellant began her GAL work and the Appellant was trained on the requirements in these private GAL statutes. (R.p.334, lines 11-17). Within the GAL training materials provided by The Children's Law Office in 2003 (and 2010), it mentioned that complaints against private GALs that maintained a professional license issued by the state of South Carolina could be reported through the appropriate Board of the South Carolina Department of Labor, License and Regulation. (R.p. 740 and R.pp. 565-567).

After a two day disciplinary hearing, the Board found that in the course of her work as a private GAL, Appellant, a licensed Social Worker, did not perform responsibilities as required by the private GAL statutes. As such, Appellant violated her Social Work principles of professional ethics and standards of conduct. One of the applicable private GAL statute is S.C. Code Ann. § 63-3-830. The plain language of the

statute prescribes several responsibilities and duties that are required in a private GAL's investigation:

(A) The responsibilities and duties of a guardian ad litem include, but are not limited to:

...(2) conducting an independent, balanced and impartial investigation to determine the facts relevant to the situation of the child and family. An investigation must include, but is not limited to:

- (a) obtaining and reviewing relevant documents...;
- (b) meeting with and observing the child on at least one occasion;
- (c) interviewing parents, caregiver, school officials, law enforcement, and others with knowledge relevant to the case;
- (d) obtaining the criminal history of each party when determined necessary; and
- (e) considering the wishes of the child, if appropriate.

The Board also found that as that Appellant violated other private GAL statutes in that she did not support her conclusions with a detailed report (S.C. Code Ann. § 63-3-830 (A)(6)); she did not disclose in her GAL affidavit that she was publicly reprimanded for misconduct by the Board (S.C. Code Ann. § 63-3-820 (D)); and she did not disclose a potential conflict of interest or withdraw because of a potential conflict of interest (S.C. Code Ann. § 63-3-860 (2)).

Case Number 2007-0001

Appellant was the second private GAL appointed to the contested family court case of Knagenhjekm v Higuera. She was appointed on November 23, 2004. Appellant contacted the first GAL who was relieved from the case, but Appellant testified the first

GAL would not speak with her without consent of the parties. (R.pp.91-92 and pp.396-397). Appellant never asked to be removed as GAL for nonpayment of fees or lack of cooperation by the parties. (R.p.89 lines 14-17; R.pp.285-286).

At the time of Appellant's GAL appointment, a November 10, 2003, Temporary Order allowed Mr. Higuera (hereinafter "Mr. H.") supervised visitation of the child by a person approved by Ms. Knagenhjekm (hereinafter "Ms. K."). (R.pp.623-627). Nineteen months after Appellant's appointment as GAL, the first and only contact the Appellant had with Ms. K. was Appellant's letter dated June 1, 2006. (R.p.631; R.pp. 55-56). In this letter, Appellant indicated that she had a home visit with Mr. H. and that it was in the child's best interest to start visitation with his father. There was no further investigation and there was no mention of supervised visitation which directly conflicted with the existing Temporary Order. The State's Expert testified about the Appellant's lack of investigative information in this letter (R.pp.276-279) and in a corroborating Affidavit from the Appellant dated January 9, 2007. (R.pp.774-776; R.pp.280-287).

In her investigative statement to the Board during the Board's investigation, Appellant wrote that she requested proof from Ms. K.'s attorney and was told there was no proof (police reports, record, etc); that she was never shown anything to substantiate that Mr. H. was dangerous; and that she advocated for this child to start seeing his father in a therapist's office. (R.p.773).

In fact, Ms. K. gave a great deal of information relating to her concerns of Mr. H. to the prior GAL and to her Attorney, Kate Schmutz. (R.pp.92-93; R.pp.632-685). Appellant's testimony in the Record conflicts with her investigative statement to the Board. The Appellant testified that she did get information from Ms. K.'s Attorney, but

she was unclear as to when or if she reviewed the information prior to her letter of June 1, 2006, to Ms. K. (R.p.352 lines 7-9).

Ms. K. testified that she was told by her Attorney that she was going to have to allow visitation based upon Appellant's decision. (R.p.74 lines22-24). Ms. K. complained about Appellant's decision to the Resident Judge, Victim's Advocacy, DSS, GAL Services for Dorchester County, Child Protective Services and various politicians (R.p.690; R. p.78). After Appellant's letter of June 1, 2006, Mr. H. disappeared (again) and the case remained dormant. (R.p.111, lines 9-25). The case was initiated under a new docket number by a new Attorney in 2007 and there was no GAL appointed for the new case. The parties agreed for Mr. H. to have supervised visitation by his counselor until the counselor determined that supervised visitation should be lifted. (R.p.895-900; R.pp.85-86). Although not appointed GAL in the new case, Appellant attended the Final Order hearing, because she thought it was a motion hearing to collect her GAL fees. (R.pp.453-456; p.89, lines 21-24; R.pp.774-776).

There is substantial evidence in the record that the only aspect of the required GAL investigation that Appellant did in this case prior to her recommendation of visitation was a home visit with Mr. H.. The only documented report of this visit was the Appellant's June 1, 2006, letter (R.pp.86-89) and an Affidavit dated January 9, 2007. (R.pp.774-776). The Board's Order sanctioning Appellant based on its factual findings is supported by the Record and will be discussed more fully *infra*.

Case Number 2007-0021

Appellant was appointed GAL in this contested family court case on September 24, 2004. Prior to her appointment, the parties were divorced in 2002 on the grounds of

Mr. Evan's habitual drunkenness. He was given unsupervised visitation every other weekend in this divorce order. In 2003, Ms. Evans moved out of state and remarried. Mr. Evans initiated a custody request, but changed it to a visitation modification. Mr. Evans' visitation modification request was contested and resulted in the Appellant's GAL appointment. It was never contested that Mr. Evans was an alcoholic. However, Appellant focused most of her time with this issue.(R.pp.463-464). In an Order dated February 19, 2007, the Judge urged the parties to mediation because the case had been pending for three and one half years and there was limited evidence to determine what was in the best interest of the minor children. (R.pp.868-871). At the time of this Order, the Appellant was the GAL for over two years.

In her investigative statement to the Board, Appellant wrote that Mr. Evans had not received any ongoing therapy/rehabilitation for his habitual alcohol abuse. (R.p.773). In a GAL report, dated April 3, 2006, Appellant wrote that Mr. Evans denied his habitual alcohol problem; that he minimized his alcohol use; and that he had not sought out counseling or any other type of substance abuse program. (R.p.711-719). The Record contains substantial testimony that refutes Appellant's information from Mr. Evans and from Douglas Fortia, an LISW-CP, who counseled Mr. Evans for his alcohol abuse beginning in November 16, 2004. (R.pp.149-151; R.pp.182-186; R.pp.192-194; R. pp.173-174). There is also substantial evidence in the Record that Appellant did not attempt to get releases which would have allowed her access to therapy/rehabilitation records or speak with any person about Mr. Evans alcohol treatment. (R. pp147-148; R. pp. 193-195).

In October 2006, there was an attempt to have Appellant relieved as GAL based on conflict of interest which Appellant contested, but this issue was never heard by the Court. (R.p.727; R.p.867). Ultimately, the parties settled the case in a Final Order in February 2008. (R.p.880). There is substantial evidence in the Record that Respondent did not conduct her responsibilities and investigation as required by the private GAL statute in S.C. Code Ann. § 63-3-830 *et seq.* (R.pp.146-149; R.pp.154-159; R.pp.302-311; R.p.313, lines 16-22; R.p.318 lines 3-11, R.p.325, lines 3-22; R.pp.327-329).

The Board's Order sanctioning Appellant based on its factual findings is supported by the Record and will be discussed more fully *infra*.

STANDARD OF REVIEW

The South Carolina Administrative Law Court has appellate jurisdiction over final decisions issued in contested cases before the professional and occupational licensing boards with the South Carolina Department of Labor, Licensing and Regulation, including the South Carolina Board of Social Work Examiners (hereinafter "the Board"). S.C. Code Ann. § 1-23-600(D) (Supp. 2007).

An Administrative Law Judge may not reverse or modify an agency's decision unless substantial rights of the Appellant have been prejudiced because the administrative findings are either clearly erroneous, in view of reliable, probative, and substantial evidence on the record as a whole, are arbitrary or capricious, are made upon unlawful procedure, or are affected by other error of law. S.C. Code Ann. § 1-23-380(A)(5) (Supp. 2007); Lark v. Bi-Lo, Inc., 276 S.C. 130, 276 S.E.2d 304 (1981); South Carolina Dept. of Labor, Licensing and Regulation v. Girgis, 332 S.C. 162, 503 S.E.2d 490 (Ct. App. 1998); and Marietta Garage, Inc. v. South Carolina Dept. of Public Safety, 337 S.C. 133, 522 S.E.2d 605 (Ct. App. 1999). An administrative agency's factual findings are presumed to be correct and can be set aside only if the findings are not supported by substantial evidence. Kearse v. State Health and Human Services Finance Commission, 318 S.C. 198, 200, 456 S.E.2d 892, 893 (1995). The South Carolina Supreme Court has defined "substantial evidence" as "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." Midlands Utility, Inc. v. S.C. Department of Health and Environmental Control, 298 S.C. 66, 69, 378 S.E.2d 256, 258 (1989). The possibility of drawing two inconsistent conclusions from the evidence does not prevent

an administrative agency's finding from being supported by substantial evidence. Grant v. South Carolina Coastal Council, 319 S.C. 348, 461 S.E.2d 388 (1995).

Appellant bears the burden to show convincingly that the Board's order is without evidentiary support or is arbitrary or capricious as a matter of law. Hamm v. Public Service Commission of South Carolina, 310 S.C. 13, 425 S.E.2d 28 (1992), Waters v. South Carolina Land Resources Conservation Comm'n, 312 S.C. 219, 467 S.E.2d 842 (1994).

ARGUMENTS

- I. THE BOARD OF SOCIAL WORK EXAMINERS PROPERLY EXERCISED JURISDICTION IN THIS MATTER TO INCLUDE THE IMPOSED SANCTION BECAUSE APPELLANT WAS AT ALL RELEVANT TIMES A LICENSED SOCIAL WORKER AND SUBJECT TO THE BOARD OF SOCIAL WORK EXAMINERS PRACTICE ACT AND JURISDICTION.

This case involves a professional disciplinary licensing proceeding brought by the Board as opposed to a civil action. As such, the Appellant is not entitled to quasi judicial immunity as provided for in Fleming v Asbill, 326 S.C. 49, 483 S.E.2d 751 (1997). Appellant's reliance on this authority under the facts of this case is misplaced. The Fleming case is distinguishable in that the Court in Fleming applied the doctrine of quasi judicial immunity to a GAL in a *civil suit* for acts committed in the performance of her duties in family court. In fact, the Court in Fleming specifically determined that the *action in tort* against the GAL was a factor that distinguished it from other cases that determined that a GAL was not entitled to judicial immunity. See, McIver v Thompson, 117 S.C.175, 108 S.E. 411 (1921) (action for partition of land); see Clarendon Holding Co. v Witherspoon, 258 S.C. 296, 188 S.E. 2d 480 (1972) (action to quiet title); Cumbe v. Cumbe, 245 S.C. 107 139 S.E. 2d. 477 (1964) (action for partition of land); Simpson v Doggett, 159 S.C. 294, 156 S.E. 771 (1930) (tort action against a third party, not the GAL); Cagel v. Schaefer, 115 S.C. 35, 104 S.E. 321 (1920) (action for specific performance of contract for the sale of certain lands). Similarly, an administrative disciplinary proceeding is not a civil action (or an action in tort) against the licensee and the policies referred to in the Fleming case that underscore absolute quasi-judicial immunity for a GAL should not apply.

There are several significant differences between a civil action and an administrative disciplinary proceeding. First, a licensee may be disciplined by the Board even if the misconduct does not cause any damage. A Board's rationale is the need for protection of the public and integrity of the profession. S.C. Code Ann. § 40-1-10 *et. seq.* Second, although the nature of the discipline depends on severity of the breach, the protection of the ethical rules may result in sanctions even if the conduct may not rise to the level of a civil wrong. Third, even if the injured party initiates a disciplinary complaint, *that individual is not a party to the disciplinary proceeding.* Deatherage v. State Examining Board of Psychology, 134 Wash., 2d 131, 139, 948 P.2nd 828 (Wash. 1997) citing J Ronald E. Mallen & Jeffrey M. Smith, *Legal Malpractice* § 1.9, at 33 (3rd ed. 1989). In the instant case, the Appellant's argument that this disciplinary proceeding was retaliation by disgruntled litigants is without merit since this disciplinary proceeding against her Social Work license was brought by the Board. Furthermore, quasi judicial immunity for a GAL who is also a licensed Social Worker should not be extended to an administrative disciplinary proceeding before the Board because it is the Board in which South Carolina vests its trust to ensure the competency and fitness of licensed Social Workers and thereby protect the public. S.C. Code Ann. § 40-1-10 *et. seq.* The Board should not be handicapped in performing this important function. Huhta v. State Board of Medicine, 706 A.2nd 1275, 1277 (Comm. Ct PA 1998).

- A. The Social Work Board had the authority to discipline Appellant, a licensed Social Worker, for work that occurred outside her Social Work practice.**

The Board's administrative disciplinary proceeding to protect the public against unprofessional or unethical conduct of Appellant is an *additional* mechanism in place to

prevent abuse, neglect and irresponsibility of a license Social Worker who is *also* a paid, private GAL. The State submits that this Court should follow cases involving other licensees who were disciplined by their respective Boards for action taken outside the scope of their licensed practice as detailed below.

In South Carolina, it is clear that attorneys must abide by moral and professional standards when acting in capacities other than practicing law. Matter of Tedder, 296 S.C. 500, 374 S.E. 2d 294 (1988) (Attorneys are subject to discipline for conduct not strictly related to the practice of law); In re Brown, 361 S.C. 347, 605 S.E. 2d 509 (2004) (Attorney could be disciplined for misconduct occurring outside the legal profession and the purpose of the disciplinary process was to protect the public from lawyer who may endanger the public); In Matter of Kenyon, 327 S.C. 307, 491 S.E. 2d 252 (1997) (Presence of dishonest behavior at all is enough); Matter of Fullwood, 322 S.C. 1, 471 S.E.2d 151 (1996) (The public must be protected from dishonest lawyers, whatever the cause of the dishonesty).

In other jurisdictions, other professional licensees have been disciplined by their Boards for actions taken outside their licensed practice. Deatherage v. State Examining Board of Psychology, 134 Wash, 2d 131, 948 P.2nd 828 (Wash.1997) (Psychologist license revoked in part based on work performed as an expert witness in child custody case); Huhta v. State Board of Medicine, 706 A.2nd 1275 (Comm. Ct PA 1998) (Physician subject to administrative disciplinary proceedings before State Board of Medicine arising out of litigation in which physician allegedly revealed confidential patient records); Greenen v. Washington State Board of Accountancy, 2005 WL 1217081 (Ct. App. WA 2005) (CPA sanctioned by the State Board of Accountancy for dishonest,

fraudulent acts related to misrepresentation of her marital status that maintained her former husband on health insurance as a state employee).

There is also substantial evidence in the record that supports the State's position that as a licensed Social Worker the Appellant is *always* bound by the principals of professional ethics and standards of conduct adopted by the Board and promulgated in regulations. S.C. Code Ann. §§ 40-63-110(A), 40-63-150; 40-1-110, 40-1-115 and 40-1-120. The State's expert, Jania Sommers, testified without objection by the Appellant, that there was no provision in the Social Work practice act which allowed the Appellant to opt out of her professional ethics and standards of conduct as a licensed Social Worker because she was doing work outside the Social Work practice. (R.p.265, lines 8-17).

Additionally, a 2003 training document authored by the Children's Law Office was admitted as State's exhibit 18 and was available online to GALs. (R.pp.737-747).² In the Accountability section for private lay Guardians ad litem, this document specifically provided that:

"Complaints against private Guardians ad litem that maintain a professional license issued by the state of South Carolina, such as *a licensed social worker*, professional counselor, or psychologist may also be reported through the appropriate board of the S.C. Department of Labor, Licensing and Regulation(LLR).(emphasis added)" (R.p.740).

The relevance of the quoted portion of this document to this case cannot be overstated. The Children's Law Office specifically contemplated in its own training manual that GALs who are also Social Workers may be accountable to their own licensing Board for conduct they engage in while serving as a private GAL.

² Appellant's Attorney stipulated that the same accountability statement is present in the 2010 Information Packet prepared by the Children's Law Office and also available on line. (R.p.150, Lines 5-14)

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Finally, a July 2004 article entitled Social Work Ethics Apply Outside Clinical Practice by the Donna DeAngelis, LICSW, ACSW, Executive Director of the Association of Social Work Boards (ASWB), was admitted as State's exhibit 17 and was available on the Board's web site.³ (R.pp.735-736). The purpose of this article is to promote awareness of the application of Social Work ethics outside the clinical practice. During the hearing, the State's expert directed the Board's attention specifically to the following statement in the article:

"But social work ethics apply much more broadly than to direct clinical practice only. Any position of authority and responsibility carries with it the professional expectation of ethical practice."
(R.p. 266 line 7-16).

This article clearly provided that there should be no exemptions from the standards of Social Work ethics and values. All Social Workers should be held accountable.
(R.p.734).

- B. Appellant infused and promoted her Social Work licensure credentials in her GAL work in the two family court cases. Throughout the Respondent's investigation, the Appellant continued to promote her Social Work licensure credentials and the importance of her use of Social Work concepts in GAL work to solicit paid private GAL recommendations for appointments.**

The evidence in the record clearly established that Appellant produced and disseminated documents to the parties and attorneys in both of these family court cases, with an obvious intention of infusing and promoting her Social Work licensure credentials in her GAL work:

³ The Association of Social Work Boards (ASWB) owns and maintains the licensing examinations used by its member boards, and also provides services to boards and social workers, such as the Approved Continuing Education program, the ASWB Social Work Registry, and the Disciplinary Action Reporting System.

- **State's Exhibit 3** is the Appellant's letter in the Knagenhjelm case dated June 1, 2006 with the Appellant's Social Work licensing credentials in the heading (R.p.630);
- **State's Exhibit 9** is the Appellant's billing statements for the Evans case dated January 23, 2006, May 3, 2006, June 1, 2006, June 29, 2006 with the Appellant's Social Work licensing credentials in the heading and signature line (R.p.700);
- **State's Exhibit 10** is the Appellant's GAL report and cover letter for the Evans case with the Appellant's Social Work licensing credentials in the heading and signature line (R.p.711);
- **State's Exhibit 13** is two (2) letters to the Attorneys in the Evans case dated January 23, 2006 and January 23, 2006, February 6, 2006 and February 22, 2006 with the Appellant's Social Work licensing credentials in the heading (R.p.724).

Assuming arguendo, it was not an intentional act, Appellant's inclusion of her Social Work licensure credentials had the same effect on the public. The Appellant also testified of the importance of her Social Work skills of accurate documentation, record keeping and billing in her GAL work. (R.p.393, lines 21-25 and p.394, lines 1-17; R.p.509, lines 1-25).

More recently, while the Board's disciplinary action was pending, Appellant promoted the value of her Social Work licensure credentials and training by speaking at a Continuing Legal Education seminar sponsored by the South Carolina Bar Association. Her presentation was entitled "Cultural Competence in the Guardian ad Litem's Role: A Social Worker's View" and the program agenda listed Appellant's Social Work licensure credentials. (R.p.771 and R. pp.270-271 lines 17-25 and lines 1-6). This presentation was based on the Appellant's article entitled The Importance of Cultural Competency in the Guardian Ad Litem Investigation which also lists the Appellant's Social Work licensing credentials. (R.p.757).

The State's expert testified at the hearing that "cultural competency" is a social work concept and that the Appellant indicated "in a variety of ways throughout the article" the value of this social work concept in GAL investigations. (R.pp.269-270, lines 9-25 and lines 1-16). This witness testimony made reference to a portion of the Appellant's article which provided:

"Cultural Competence is an ethical standard for Social Work practice...and both Guardian ad Litem programs would have better outcomes for the children and families involved if Cultural Competence training became a standard for Guardian As Litem entering the system." (R.p.237, lines 11-16).

Also, while the Board's disciplinary action was pending, a document was emailed to members in the legal community on or about February 5, 2010. (R.p.748). This email provided a list of Final GAL, Lay GAL and Mediator. Appellate is referred to in the "Member Updates" and there is a paragraph which promotes her newest Social Work credentials and her availability for GAL appointments and mediation. (R.p.749).

The record is clear that:

- That Appellant has been a licensed Social Worker for 15 years (R.p.390, lines 13-22) and she started doing GAL work on or about 2003 (R.p.334, line 11);
- The Appellant has been appointed in over 150 GAL cases while a licensed Social Worker (R.p.334, line 20);
- The majority of Appellant's financial income was in the GAL context (R.p.391, lines 6-9);
- That Appellant lectured to attendees at a Continuing Legal Education sponsored by the South Carolina Bar about the importance of applying Social Work concepts to GAL work (R.p.771; R.p.391, lines 16-20);
- The Appellant's Social Work credentials were promoted to the members of the legal community who could refer her as an appointed GAL for the family court. (R.p.748; R. p.391, lines 21-25 and p. 392, line 1).

Appellant infused her Social Work credentials with her GAL work in these two family court cases. This infusion and Appellant's continued promotion of her Social Work licensure credentials and the importance of the application of her Social Work concepts for better outcomes for children and families involved in GAL cases in family court indicates Appellant's awareness that her Social Work licensure enhanced her ability to get paid GAL appointments. The State submits that Appellant can not opt in and out of her Social Work licensure. As a licensed Social Worker, Appellant should be accountable to the Social Work Board for misconduct in work she did outside her Social Work practice.

For these reasons, the Board's Order sanctioning Appellant should be affirmed.

II. THE BOARD'S FINDINGS AND CONCLUSIONS ARE NOT CLEARLY ERROEOUS AND ARE NOT CHARACTERIZED BY ABUSE OF DISCRETION. THE BOARD'S FINDINGS ARE SUPPORTED BY RELIABLE, PROBATIVE AND SUBSTANTIAL EVIDENCE ON THE RECORD.

An exercise of discretion by an administrative agency will not be disturbed unless there is an abuse of discretion evidenced by a showing that the action of the agency was arbitrary or unlawful. 73A C.J.S. Public Administrative Law and Procedure § 223a (1983). An administrative sanction cannot be said to be unduly harsh if it is within the Board's authority to impose. South Carolina Bd. of Examiners in Optometry v. Cohen, 256 S.C. 13, 180 S.E.2d 650 (1971). The authority to review the findings of fact and punishment imposed in the Board's Order is confined to the correction of errors of law. This tribunal is not permitted to substitute its judgment for that of the Board, unless the Board's action was influenced or controlled by some erroneous view of the law, was

without substantial evidence to support it, or amounted to a manifest abuse of discretion. State v. White, 218 S.C. 130, 61 S.E.2d 754 (1950).

The Board has jurisdiction in this matter and the Board did not abuse its discretion. S.C. Code Ann. §§ 40-1-115 and 40-1-120. The Board is authorized to revoke, suspend, publicly reprimand, or otherwise restrict the practice or discipline a licensee when it is established that the licensee is guilty of misconduct. S.C. Code Ann. §§ 40-63-110(A) and (B). In addition, S. C. Code Ann. § 40-1-120 authorizes the Board to prescribe conditions to be met during probation. Statutory law does not provide an exclusive list of the conditions the Board is authorized to impose. In Deese v. South Carolina State Bd. Of Dentistry, 286 S.C. 185, 332 S.E.2d 539 (Ct App. 1985) the Court determined that a Board's discretion does not have to be exercised identically in every case. In Deese, the Court held that: "A penalty that is within the [Board's authority] is not rendered invalid in a particular case because it is more severe than sanctions imposed in other cases, and mere unevenness in the application of the sanction does not render its application in a particular case unwarranted in law." Id at 286 S.C. 182, 332 S.E. 2d 539, 541 (Ct. of App. 1985).

The Board's findings of facts are supported by the substantial evidence in the Record. Appellant was appointed GAL in two contested family court cases. The Record provides substantial testimony that Appellant did not perform the GAL responsibilities as required by S.C. Code Ann. § 63-3-810 *et seq.*

In both of these family court cases, the Appellant was specifically irresponsible in her failure to conduct an independent, balanced and impartial investigation to determine facts relevant to the situation of the child and family and in her failure to present to the

court and all parties clear and comprehensive written reports. S.C. Code Ann. §§ 63-3-830(A)(2)(a-f) and (6). The applicable portions of the §§ 63-3-830(A)(2)(a-f) and (6) are as follows:

(A) The responsibilities and duties of a Guardian *ad litem* include, but are not limited to:

- (2) Conducting an independent, balanced, and impartial investigation to determine the facts relevant to the situation of the child and the family. An investigation must include, but is not limited to:
 - (a) obtaining and reviewing relevant documents...;
 - (b) meeting with and observing the child on at least one occasion;
 - (c) visiting the home settings if deemed appropriate;
 - (d) interviewing parents, caregivers, school officials, law enforcement, and others with knowledge relevant to the case;
 - (e) obtaining the criminal history of each party when determined necessary;
 - (f) consider the wishes of the child, if appropriate...;
- (6) Presenting to the court and all parties clear and comprehensive written reports including, but not limited to, a final written report regarding the child's best interest...; (emphasis added)

It is clear from the plain language of this statute, that there are several aspects that a GAL's investigation must include and that the GAL's discretion is to do more not less. The eventual outcome of these cases did not dictate Appellant's statutory responsibilities prior to the final hearing. Appellant's failure to conduct an independent, balanced and impartial investigation along with her failure to support her conclusions with clear and comprehensive reports as statutorily required is particularly problematic for a licensed Social Worker. The Board's findings of fact were not clearly erroneous or an abuse of discretion based on the substantial evidence in the Record and the plain language of the applicable statute.

The Board's finding of fact that Appellant did not disclose in her statutorily required affidavit that her Social Work license was in a probationary status was an

accurate determination of the requirements in the statute. Section 63-3-820(D) requires that upon appointment a private GAL:

"... must provide an affidavit to the court and to the parties attesting to compliance with the statutory qualifications. The affidavit must include, but is not limited, the following:

- (1) a statement affirming that the guardian as litem has completed the training requirement provided for in subsection (A);
- (2) a statement affirming that the guardian ad litem has complied with the requirements of this section, including a statement that the person has not been convicted of a crime enumerated in subsection (B); and
- (3) a statement affirming that the guardian ad litem is not nor has ever been on the Department of Social Services Central Registry of Child Abuse and Neglect pursuant to Subarticle 13, Article 3, Chapter 7. (emphasis added).

The plain language in this statute is that this required private GAL affidavit is not limited to what is provided in the statute. Furthermore, what this statute specifies is not only the GAL training requirements, but also statements regarding prior criminal convictions and inclusion in child abuse and neglect registry. Since the Appellant infused her Social Work licensure credentials in her GAL work, the probationary status of her Social Work license is information that is relevant to her GAL appointment and should have been included in this affidavit. The Board's finding to this effect is not clearly erroneous or an abuse of its discretion based upon the plain language of the this statute.

Finally, S.C. Code Ann. § 63-3-860 of the private GAL statute requires written disclosure upon appointment of "any interest adverse to any party or attorney which might cause the impartiality of the guardian ad litem to be challenged." There is substantial evidence in the Record that this potential conflict of interest should have been disclosed by the Appellant in the Evans case (R.pp.122-125; R.p.130 lines 13-25). Also, Appellant's position that she would never withdraw as GAL is contrary to this provision of this private GAL statute. (R.p.361, lines 4-22; p.472, lines 1-25). The Board was not

clearly erroneous and did not abuse its discretion when it determined as a finding of fact that Appellant should have disclosed this potential conflict of interest. Moreover, when a motion was made to relieve Appellant as the private GAL because of concern for a conflict of interest, the Appellant should have withdrawn as GAL instead of contesting the motion.

In reviewing the Record, the Court should also consider Appellant's inconsistencies credibility and admissions of wrong doing regarding her lack of investigation, poor record keeping and lack of documentation. As fact finders, the Board was in the unique position to see and hear the Appellant during the hearing.

Appellant's testified that two computer crashes caused her loss of documentation and records; however, she did not reveal this information in a subpoena duces tecum that was issued by the Board on April 14, 2010.(R.pp.358-360; R.pp.425-428; R.pp.40-402). Furthermore, during the Board's investigation of the initial complaints, Appellant submitted her responses for both cases in State's Exhibit 22. There is substantial evidence in the Record that is inconsistent with her responses to the Board's investigation in both cases and cast doubt on the credibility of Appellant's testimony regarding her investigation, proper documentation and record keeping.

In case 2007-0001, Appellant indicated in her investigative statement to the Board that she did not receive any proof of Mr. H.'s violence from Attorney, Kate Schmutz. At the hearing, Appellant testified that she received the documents from Attorney Schmutz. R.pp.399-401). To further complicate a determination of what documents she received from Attorney Schmutz, Appellant testified that she shredded the documents after the

case concluded. (R.pp.401-402). Attorney Schmutz testified that she did not recall if she gave Appellant any documents. (R.pp.520-521).

In case 2007-0021, Appellant wrote in her investigative statement that Mr. Evans did not receive any ongoing therapy/rehabilitation for habitual alcohol abuse. There is substantial evidence in the Record that indicates that Mr. Evans did get ongoing therapy for his habitual alcohol abuse.(R.pp.182-186; pp.192-194; R.pp.173-174; R.pp.148-153.) and Appellant never attempt to get releases so she could request a copies of these therapy/rehabilitation records. (R.pp.195-195; R.pp.158-159). Again, the inconsistencies in Appellant's responses on these critical issues create doubt as to her professionalism in the matters which were properly before the Board.

Finally, Appellant admitted throughout the Record that there were problems with her lack of record keeping and documentation. (R.pp.506-508; R.pp.404-407; R.pp. 401-402; R.pp.425-428; R.pp.430-432).

Based on the entire Record as a whole, the Board's findings were not clearly erroneous and were not an unwarranted exercise of discretion. There is reliable, probative and substantial evidence to support the Board's Order and sanctions. The Board's Order should be affirmed.

CONCLUSION

For all the reasons discussed above, the Court should affirm the South Carolina Board of Social Work Examiners Order dated July 13, 2010.

Respectfully submitted,



Georgia L. Lewis

Christa T. Bell

Assistant General Counsel

November 17, 2010
Columbia, South Carolina

South Carolina Department of Labor,
Licensing and Regulation
110 Centerview Drive
Columbia, South Carolina 29211
(803) 896-4472

ATTORNEYS FOR RESPONDENT

THE STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

APPEAL FROM THE SOUTH CAROLINA DEPARTMENT OF
LABOR, LICENSING AND REGULATION
THE STATE BOARD OF SOCIAL WORK EXAMINERS

Docket No. 10-ALJ-11-0591-AP

Karen Forman.....Appellant,

v.

South Carolina Department of Labor,
Licensing and Regulation,
The State Board of Social Work Examiners.....Respondent.

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the Brief of Respondent with or served a copy thereof on the persons hereafter named, by personally delivering to or depositing same in an envelope, securely wrapped in the United States mail, by certified mail, properly addressed to the said persons hereafter named, at the places and addresses stated below, which are the last known addresses for same:

The Honorable John D. McLeod
Administrative Law Court
1205 Pendleton Street, Suite 224
Second Floor
Columbia, SC 29201

Debra S. Tedeschi
1422 Laurel Street
Columbia, SC 29201

FILED

NOV 17 2010

SC ADMIN. LAW COURT

Columbia, South Carolina
November 17, 2010

**SOUTH CAROLINA DEPARTMENT OF
LABOR, LICENSING & REGULATION**



Derek M. Swindall, Law Clerk
South Carolina Department of Labor,
Licensing and Regulation
Office of General Counsel

**SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND REGULATION
BEFORE THE STATE BOARD OF SOCIAL WORK EXAMINERS**

In the Matter of:

KAREN A. FORMAN
License No. LMSW.4931

OIE # 2007-1
OIE #2007-21

Respondent.

NOTICE OF HEARING

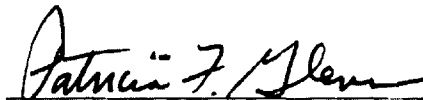
TO THE RESPONDENT ABOVE NAMED:

YOU ARE HEREBY NOTIFIED THAT:

1. A hearing before the Board of Social Work Examiners with respect to the above-captioned matter is scheduled for **September 17, 2012 at 11:00 a.m. in Room 105** of the Kingstree Building located at the Synergy Business Park, 110 Centerview Drive, Columbia, SC.
2. The hearing is being held pursuant to the July 12, 2011, Remand Order of the Honorable John D. McLeod, of the Administrative Law Court.
3. Hearings are held in accordance with the South Carolina Administrative Procedures Act, S.C. Code Ann. § 1-23-310, et seq. (1976, as amended), the Board's Practice Act, § 40-35-10, et seq. and the Rules and Regulations of the Board.
4. You have the right to be represented by legal counsel. If you do not appear at the hearing, the Board will conduct the hearing in your absence.

**SOUTH CAROLINA DEPARTMENT OF
LABOR, LICENSING & REGULATION**

**STATE BOARD OF SOCIAL WORK
EXAMINERS**



Patricia Glenn
Administrator

Columbia, South Carolina

June 7, 2012

* Hearing times are subject to change.

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**SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND REGULATION
BEFORE THE SOUTH CAROLINA BOARD OF SOCIAL WORK EXAMINERS**

In the Matter of:

KAREN A. FORMAN,
License No. SW.4931,

OIE # 2007-1 and 2007-21

Respondent.

CERTIFICATE OF SERVICE

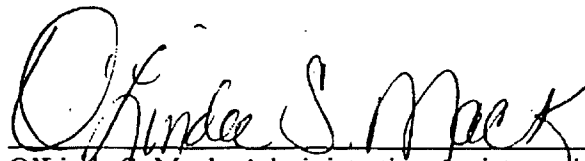
I hereby certify that I have this day served the within **Notice of Hearing** upon the Respondent by depositing a copy of the same in an envelope in the United States Mail, Certified, Return Receipt Requested, properly addressed to the said person(s) hereafter named, at the address indicated below, which is the last known address for the same.

Erin K. Urquhart, Esquire
Thomas Franklin McDow, IV, Esquire
PO Box 11629
Columbia, SC 29211

Karen A. Forman
[REDACTED]
Charleston, SC 29401

**SOUTH CAROLINA DEPARTMENT OF
LABOR, LICENSING & REGULATION**

BOARD OF SOCIAL WORK EXAMINERS



O'Linda S. Mack, Administrative Assistant
Office of General Counsel
S.C. Department of Labor, Licensing & Regulation
Post Office Box 11329
Columbia, SC 29211-1329

Columbia, South Carolina
June 7th, 2012

received 6/21/12
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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

John D. McLeod, Judge, Administrative Law Court

Case No. 2010ALJ-11-0591-AP

Karen A. Forman

Appellant,

versus

South Carolina Department of Labor,
Licensing and Regulation, State Board
of Social Work Examiners,

Respondents.

NOTICE OF APPEAL

Karen A. Forman, the appellant, appeals from:

1. The order of the Board of Social Work Examiners dated July 13, 2010,
served July 16, 2010.
2. The order of John D. McLeod dated, filed, and served July 12, 2011.
3. The order denying the motion for rehearing dated, filed, and served
November 3, 2011.
4. Order on remand of the Board of Social Work Examiners dated
September 19, 2012, received September 21, 2012.

Copies the orders are attached.

Law Office of Thomas F. McDow

By/s/Erin K. Urquhart

By Erin K. Urquhart
Attorney for Appellant

514 Oakland Avenue, Second Floor
Post Office Box 891
Rock Hill SC 29731-6891
Telephone 803-327-4151

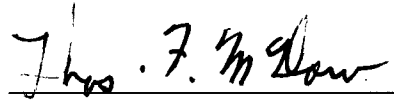
September 26, 2012

Other counsel of record are:

Christa Tidwell Bell
Georgia D. L. Lewis
Attorneys for Respondent
Post Office Box 11329
Columbia SC 29221
Telephone 803-896-4470 and 803-896-4470

Certificate of Counsel

I certify that the designation contains no matter which is not relevant to this appeal.

A handwritten signature in black ink, appearing to read "Thos. F. McDow", is written over a horizontal line.

Thomas F. McDow

Erin K. Urquhart

Attorneys for Appellant

514 Oakland Avenue, Second Floor

Post Office Box 891

Rock Hill SC 29731-6891

Telephone 803-327-4151

November 12, 2014

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

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SC Court of Appeals

S. Phillip Lenski, Administrative Law Court
Case No. 2010ALJ-11-0591-AP, 2012ALJ-11-0495-AP

Karen A. Forman

Appellant,

versus

South Carolina Department of Labor,
Licensing and Regulation, State Board
of Social Work Examiners,

Respondents.

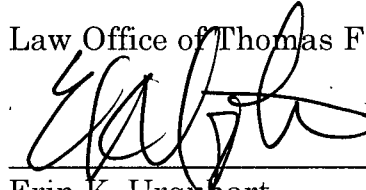
PROOF OF SERVICE

I certify that I served the record on appeal by depositing a copy of it in the

United States Mail, postage prepaid, on November 14, 2014, addressed as follows:

Lauren N. Kearney
Assistant Disciplinary Counsel
S.C. Dept. of Labor, Licensing and Reg.
Attorney for Respondent
Post Office Box 11329
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Law Office of Thomas F. McDow



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November 14, 2014

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