

1 XAVIER BECERRA  
Attorney General of California  
2 LINDA L. SUN  
Supervising Deputy Attorney General  
3 HELENE E. ROUSE  
Deputy Attorney General  
4 State Bar No. 130426  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 269-6279  
6 Facsimile: (213) 897-2804  
E-mail: Helene.Rouse@doj.ca.gov  
7 *Attorneys for Complainant*

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

12  
13 In the Matter of the Accusation Against:

Case No. 2002018002173

14 **RACHEL ANNE BERNSTEIN**  
16255 Ventura Boulevard, Suite 806  
15 Encino, CA 91436

**A C C U S A T I O N**

16 **Licensed Marriage and Family Therapist**  
License No. LMFT 28267

17 Respondent.  
18

19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about July 26, 1991, the Board issued Licensed Marriage and Family Therapist  
25 License Number LMFT 28267 to Rachel Anne Bernstein (Respondent). The Licensed Marriage  
26 and Family Therapist License will expire on August 31, 2020.

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1 **JURISDICTION**

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

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

9 5. Section 4990.33 of the Code states:

10 Notwithstanding any other law, except as provided in Section 4990.32, the  
11 expiration, cancellation, forfeiture, or suspension of a license, registration, or other  
12 authority to practice by operation of law or by order or decision of the board or a court  
13 of law, the placement of a license on a retired status, or the voluntary surrender of a  
14 license or registration by a licensee or registrant, of any license or registration within  
the authority of the board, shall not deprive the board of jurisdiction to commence or  
proceed with any investigation of, or action or disciplinary proceeding against, the  
licensee or registrant or to render a decision suspending or revoking the license or  
registration.

15 **STATUTORY PROVISIONS**

16 6. Section 4982 states:

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

20 \* \* \* \*

21 (d) Gross negligence or incompetence in the performance of marriage and  
family therapy.

22 (e) Violating, attempting to violate, or conspiring to violate any of the  
23 provisions of this chapter or any regulation adopted by the board.

24 \* \* \* \*

25 (l) Performing, or holding oneself out as being able to perform, or offering to  
26 perform, or permitting any trainee, registered associate, or applicant for licensure  
under supervision to perform, any professional services beyond the scope of the  
license authorized by this chapter.

27 (m) Failure to maintain confidentiality, except as otherwise required or  
28 permitted by law, of all information that has been received from a client in confidence

1 during the course of treatment and all information about the client that is obtained  
2 from tests or other means.

3 (s) Performing or holding oneself out as being able to perform professional  
4 services beyond the scope of one's competence, as established by one's education,  
5 training, or experience. This subdivision shall not be construed to expand the scope of  
6 the license authorized by this chapter.

7 \* \* \* \*

### 8 REGULATORY PROVISIONS

9 7. California Code of Regulations, Title 16, section 1845 states:

10 As used in Section 4982 of the code, unprofessional conduct includes, but is  
11 not limited to:

12 (a) Performing or holding himself or herself out as able to perform  
13 professional services beyond his or her field or fields of competence as established by  
14 his or her education, training and/or experience.

### 15 COST RECOVERY

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

### 22 FACTUAL ALLEGATIONS

23 9. On or about May 2, 2018, M.S. filed a complaint with the Board, alleging that  
24 Respondent misused her license as a marriage and family therapist by writing a letter to the  
25 family court to include clinical observations about M.S. without ever seeing her as a client.<sup>1</sup>

26 10. On or about May 13, 2013 and May 16, 2013, M.S. and her husband, J.S., exchanged  
27 emails with Respondent to enlist her assistance with an issue involving J.S.'s mother, S.D.,  
28 calling her son at his office and bullying and upsetting him. On or about May 16, 2013, M.S. and  
J.S. spoke with Respondent over the telephone about their concern about S.D.

<sup>1</sup> The initials of individuals referenced in this Accusation are used to protect their privacy. However, upon a timely and proper request for discovery from Respondent, Complainant will provide discovery documents which reveal their identities.

1           11. On March 27, 2014, Respondent was copied on an email exchange with S.D. in which  
2 M.S. and J.S. encouraged S.D. to pursue therapy, and indicated they did not want to be involved  
3 in therapy sessions with S.D.

4           12. While Respondent did provide therapy to J.S., she never provided therapy to M.S. At  
5 the time of the only telephone call in which Respondent spoke with M.S., her children had not  
6 been born yet. Furthermore, Respondent never met M.S. in person or observed M.S. with her  
7 children.

8           13. M.S. and J.S. became embroiled in a divorce and custody case involving their two  
9 young children, who were the ages of 13 months and three years. On or about April 16, 2018,  
10 Respondent wrote a letter to the court for J.S., in connection with his petition for change of  
11 custody, in which she stated that M.S. was a “narcissist/emotional abuser”, a “controller”, and  
12 someone who is likely to make up “false allegations”. Respondent also claimed to have  
13 “specialized” experience with narcissistic persons and manipulators, which allowed her to  
14 immediately recognize M.S. as narcissistic. Respondent opined that M.S. was at risk of making  
15 false allegations, perpetrating PAS (Parental Alienation Syndrome), and that J.S. needed legal  
16 protection against M.S.

17           14. Respondent did not obtain M.S.’s consent to provide the letter dated April 16, 2018 to  
18 the court. M.S. was shocked to learn of Respondent’s letter with its clinical observations and  
19 diagnosis of her as narcissistic based upon their limited communications three or four years ago,  
20 and without having met or treated her.

21           15. During an interview with the Board’s investigator, M.S.’s attorney stated that  
22 Respondent’s letter was stricken from the record by the family law court in the couple’s custody  
23 dispute. In addition, M.S.’s attorney indicated that, at the time Respondent submitted the letter  
24 for J.S. with the court, there was an open Department and Children of Family Services  
25 investigation of J.S. for child abuse, and J.S. was limited to weekly supervised visits of three  
26 hours with his children.

27           16. When interviewed by the Board’s investigator, Respondent stated that M.S. was never  
28 her client, but because of her “specialized expertise”, she recognized that M.S. was narcissistic.

1 Respondent did not provide any information to support her claim she had specialized experience,  
2 education or training in narcissistic disorders. Furthermore, Respondent claimed that M.S. was  
3 harassing her and her children with process servers issuing a subpoena. Respondent contended  
4 that her letter referenced narcissistic characteristics in general, but that she had not diagnosed  
5 M.S. with narcissism and had not made any custody recommendations.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Incompetence in the Performance of Marriage and Family Therapy)**

8 17. Respondent is subject to disciplinary action under Code section 4982, subdivision (d),  
9 on the grounds of incompetence in that Respondent:

10 a. Showed that she lacked general knowledge about informed consent and  
11 confidentiality, which are primary tenets of the practice of marriage and family law. Respondent  
12 violated M.S.'s confidentiality as a potential client and/or collateral family member, by disclosing  
13 confidential information about M.S. in the April 2018 letter she submitted to the family law court  
14 in connection with J.S.'s petition for change of custody, without first obtaining M.S.'s consent  
15 and a signed written authorization/release from M.S.

16 b. Wrote and provided a letter to the court expressing an expert opinion in a child  
17 custody dispute between M.S. and J.S., diagnosing M.S. as narcissistic, manipulative, abusive and  
18 controlling, without ever having met or provided therapeutic services to M.S., and without  
19 considering J.S.'s motives for having Respondent write the letter.

20 c. Provided expert opinions in the family law case involving M.S. and J.S. without  
21 considering the ramifications of those opinions, including that J.S. was harassing Respondent by  
22 attempting to serve a subpoena on her, which showed that she lacked the necessary training and  
23 experience to do so.

24 d. Failed to consider the potential damage the opinions in her April 2018 letter  
25 could have on J.S., M.S. and their relationship with their children, and opined about the safety of  
26 M.S. with her children, without completing an evaluation of the family in the context of the  
27 custody case.

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1 e. Held herself out as having specialized expertise in diagnosing narcissism to  
2 support her diagnosis of M.S. as narcissistic, without meeting M.S. or conducting an evaluation of  
3 M.S., which did not conform to standard therapy practices for assessment and diagnosis.

4 18. Complainant refers to and hereby expressly incorporates the allegations contained  
5 within paragraphs 9-16, above, as through fully set forth herein.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Gross Negligence)**

8 19. Respondent is subject to disciplinary action under Code section 4982, subdivision (d),  
9 on the grounds of gross negligence in that Respondent:

10 a. Violated M.S.'s confidentiality as a potential client and/or collateral family  
11 member, by disclosing confidential information about M.S. in the April 2018 letter she submitted  
12 to the family law court in connection with J.S.'s petition for change of custody, without first  
13 obtaining M.S.'s consent and a signed written authorization/ release from M.S.

14 b. Wrote and provided a letter to the court expressing an expert opinion in a child  
15 custody dispute between M.S. and J.S., diagnosing M.S. as narcissistic, manipulative and  
16 controlling, without ever having met or provided therapeutic services to M.S., and without  
17 considering J.S.'s motives for having Respondent write the letter.

18 c. Provided expert opinions in the family law case involving M.S. and J.S. without  
19 considering the ramifications of those opinions, including that M.S. was harassing Respondent by  
20 attempting to serve a subpoena on her, which showed that she lacked the necessary training and  
21 experience to do so.

22 d. Failed to consider the potential damage the opinions in her April 2018 letter to  
23 the court would have on J.S., M.S. and their relationship with their children, and opined about the  
24 safety of M.S. with her children, without completing an evaluation of the family in the context of  
25 the custody case.

26 e. Held herself out as having specialized expertise in diagnosing narcissism to  
27 support her diagnosis of M.S. as narcissistic, without meeting M.S. or conducting an evaluation of  
28 M.S., which did not conform to standard practices for assessment and diagnosis.







1           2.    Ordering Rachel Anne Bernstein to pay the Board of Behavioral Sciences the  
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
3 Professions Code section 125.3; and,

4           3.    Taking such other and further action as deemed necessary and proper.  
5

6           DATED: March 1, 2019



7           KIM MADSEN  
8           Executive Officer  
9           Board of Behavioral Sciences  
10          Department of Consumer Affairs  
11          State of California  
12          Complainant

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