

BEFORE THE BOARD OF SOCIAL WORK EXAMINERS
FOR THE STATE OF NEW MEXICO

IN THE MATTER OF:

Case No. SW-18-7-COM

Robert Diamond,
License No. C-2735,

Respondent.

SETTLEMENT AGREEMENT

Whereas, Robert Diamond (hereafter, "Respondent") is licensed in New Mexico under the Social Work Practice Act, NMSA 1978, § 61-31-1 *et seq.*, ("the Act"), and is subject to the jurisdiction of the New Mexico Board of Social Work Examiners ("Board"); and

Whereas, the Board received a formal complaint alleging that Respondent has violated the Act; and

Whereas, the Board found sufficient evidence to refer the matter to its administrative prosecutor and request that a Notice of Contemplated Action ("NCA") be issued against Respondent; and

Whereas, an NCA was issued pursuant to the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 through -34 (1957, as amended through 2017) ("ULA"), which stated that the Board had sufficient evidence which, if not rebutted or satisfactorily explained, would justify the Board taking disciplinary action against Respondent up to and including license revocation; and

Whereas, Respondent is willing to resolve this matter without the need for, and time and expense of, a formal hearing being conducted;

Whereas, Respondent's counsel presented a proposed Settlement Agreement to the Board for consideration at the Board's meeting on September 14, 2020, without signature of the Respondent, which the Board accepted by unanimous vote, the Board takes notice now that this instant Settlement Agreement renders the prior Agreement null and void; and

Whereas, the Board's administrative prosecutor believes that this proposed Settlement Agreement (the "Agreement") is appropriate and in the best interest of the Board and the State:

THEREFORE, IT IS AGREED AS FOLLOWS:

1. Jurisdiction: Respondent is licensed by the Board or otherwise subject to the Act and jurisdiction of the Board.

2. **Voluntary Agreement:** Respondent enters into this Agreement knowingly and voluntarily, without duress or coercion, and after a full opportunity to consult an attorney. Respondent understands that if he rejects this agreement the Board will conduct a formal evidentiary hearing which could result in the Board imposing discipline that is more severe or less severe than the sanctions imposed herein.
3. **Board Approval:** This Agreement requires Board approval. If the Board rejects this Agreement, the Board may proceed with a full evidentiary hearing on a date scheduled by the Board in a subsequent notice. If the Board rejects this Agreement, the terms of this Agreement or statements made by Respondent in support of this Agreement shall not be used against Respondent in a subsequent hearing. The approval shall be effective the date this Agreement is signed by the Board or its designee.
4. **Waivers:** If this Agreement is accepted by the Board, Respondent agrees to waive any and all rights under the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 through -34 (1957, as amended through 2017), including but not limited to the right to an evidentiary hearing, the right to discovery, the right to present evidence, the right to call and cross examine witnesses, and the right to judicial review.
5. **Violations:** While Respondent disputes the Board's assertions and does not admit to any violation, the Respondent has elected not to contest the Board's assertion that he violated the following Act or Board rules:
 - a. NMSA 1978 § 61-31-17(A)(4);
 - b. NMAC 16.63.16.8(A). Commitment to clients;
 - c. NMAC 16.63.16. Conflict of Interest;
 - d. NMAC 16.63.16.8 (N) Payment for Services.
6. **Sanctions and Conditions:** Respondent agrees to the following disciplinary sanctions and conditions:
 - a. **Fine:** Respondent shall pay to the Board a fine of two thousand dollars (\$2,000.00) within ninety (90) days from the date this Agreement is accepted by the Board. Fine shall be rendered in the form of a cashier's check and sent to:

Sheila Harris
Compliance Liaison
New Mexico Board of Social Work Examiners
New Mexico Regulation and Licensing Department
P.O. Box 25101
Santa Fe, NM 87504

- b. **Continuing Education:** Respondent shall successfully complete the continuing education course listed below. Respondent shall obtain prior written approval (email confirmation of such approval is sufficient) for the course from the Board's administrator or designee before taking any course. The course shall not be credited toward any other continuing education requirements for Respondent's licensure and Respondent is responsible for any associated costs. Respondent shall submit evidence of the successful completion of any course within 120 days from the date this Agreement is accepted by the Board. The required course is:
 - i. 4 hours in Ethics
 - c. Respondent stipulates to a one-year suspension, beginning as of the date this Agreement is accepted, of his New Mexico license by the New Mexico Board of Social Work Examiners.
- 7. Upon completion of the sanctions listed above, the Board shall issue him a letter informing him of completion of the terms of this Agreement.
- 8. **Reportable Discipline:** Respondent understands that this Agreement constitutes formal disciplinary action by the Board, as such, the Board may report the action to the applicable professional licensing national database, if any.
- 9. **Non-Compliance:** Respondent understands and agrees that failure to comply with the terms of this Agreement will result in further Board action. Any violation of this Agreement will result in the immediate, automatic filing of an administrative Notice of Non-Compliance by Board staff. Upon the filing of a Notice of Non-Compliance, the matter shall be scheduled for the next public meeting of the Board, at which time the Board shall hear from Board staff regarding the alleged non-compliance. Respondent shall have the opportunity to address the allegations or offer any other relevant argument or evidence regarding the reasons for non-compliance. Such argument or evidence may be provided in writing prior to the meeting or in person at the Board meeting. Any presentation regarding the Notice of Non-Compliance shall be limited to evidence surrounding Respondent's alleged failure to comply with the Agreement. Upon finding such violation occurred, the Board may suspend Respondent's license(s), provided that this suspension may only remain in effect until such time as the Respondent has complied with the terms of this agreement, or take other enforcement action as permitted by law. If Respondent's non-compliance constitute acts that are prohibited under the Board's statute or rules, the Board may also initiate a new disciplinary action and refer that matter for administrative prosecution.
- 10. **Contact Information:** Respondent shall notify the Board within ten (10) calendar days if there is a change in social work employment or home address during the term of discipline or prior to completion of any conditions stated herein.

11. **Public Record:** This Agreement and the original complaint are public records and may be provided for inspection if requested, pursuant to the New Mexico Inspection of Public Records Act ("IPRA"), NMSA 1978, Sections 14-2-1 to -12 (1947, as amended through 2018). The Board may also publish this Agreement or a summary of the Agreement to the public, which may include posting to the Board's website.
12. **Full Compliance and Final Disposition:** Upon Respondent's satisfactory completion of the terms of this agreement, the case will be deemed closed for administrative purposes without the filing of an order or official vote of the Board. However, this matter may still constitute disciplinary action as provided herein for purposes of Respondent's record with the Board.
13. **Prior Settlement Agreement, Executed September 14, 2020:** This Settlement Agreement, once accepted by the Board, shall supersede and render null and void the prior Agreement signed on September 14, 2020, which was presented to the Board without signature of Respondent.

I understand and have read this document and hereby agree to the terms of this Agreement freely and voluntarily. I understand that by entering into this Agreement I am giving up my rights under the Uniform Licensing Act, including my right to an evidentiary hearing on the merits of the alleged violations.

I understand that if the Board accepts this Agreement, I am required to comply with the terms stated herein, and that failure to comply with the Agreement may subject me to further discipline, including temporary suspension of my license.


Robert Diamond, Respondent

10/18/2020
Date

Prepared by:

/s/ Erin Lecocq
Erin Lecocq
Assistant Attorney General
Administrative Prosecutor
New Mexico Office of the Attorney General
P.O. Drawer 1508
Santa Fe, NM 87504
(505) 490-4060 – Telephone
elecocq@nmag.gov

ORDER

This document is not valid unless it is accepted by vote of the Board. Having come before the Board during a properly scheduled public meeting, with a quorum present and majority voting in the affirmative, this Agreement is:

 X **ACCEPTED**

IT IS SO ORDERED.

 /s/ Roxroy A. Reid

**Dr. Roxroy Reid, Chair
New Mexico Board of
Social Work Examiners**

 12/11/2020

Date