BEFORE THE MISSISSIPPI STATE BOARD OF EXAMINERS FOR LICENSED PROFESSIONAL COUNSELORS

In the Matter of:	
LORITA LYNN HARRIS,	**No. 2017-29**
Respondent	

FINAL ORDER

THIS MATTER came before the Mississippi State Board of Examiners for Licensed Professional Counselors ("Board") on April 20, 2018, to determine whether disciplinary action should be imposed against the license of Lorita Lynn Harris ("Respondent"). Board Member Richard Strebeck, PhD, LPC-S, NCC, CSAT, recused himself and did not participate in the Board's consideration and deliberation in this matter. A quorum of the remaining Board members was present throughout the hearing and deliberation in the matter.

The Respondent appeared in person for the hearing and was represented by legal counsel, Attorney Thomas Morris, Sr., Wm. Jeffrey Jernigan, Legal Counsel for the Board, presented the charges against the Respondent. The case was called for hearing without objection from any party.

Gloria J. Green served as Administrative Hearing Officer, presided at the hearing and was directed to prepare the Board's written decision in accordance with its deliberation. Having conducted the hearing in this matter and based upon the exhibits, testimony and the evidence presented, the Board makes the following findings, conclusions and order based on clear and convincing evidence:

FINDINGS OF FACT

1. The Board is established pursuant to Title 73, Chapter 30 of the Mississippi Code of 1972, as amended, and is charged with the duty of licensing and regulating the practice of Licensed Professional Counselors in the State of Mississippi.

2. Respondent is the holder of license number 1159 issued by the Board.

3. On or about June 7, 2017, the Respondent filed a 2017 Licensed Professional Counsel ("LPC") Renewal Application with the Board. The license was renewed on or about June 7, 2017.

4. Thereafter, on or about December 21, 2017, a complaint was filed against the Respondent, charging her with failure to disclose pending legal action on her 2017 LPC Renewal Application. On or about March 13, 2018, a Notice of Hearing and Complaint was served on the Respondent advising her of the time, place, and nature of the hearing to be held before the Board

regarding this matter.

5. Respondent answered "No" to Question 17(c) on the Application, which required her to reveal whether any legal actions were pending against her or to which she was a party in relation to the performance of her professional services in counseling or any profession. In completing her application, the Respondent certified to the following:

> I affirm under penalty of perjury that all statements made and information contained in the Renewal Application are true and correct to the best of my knowledge and belief. Should I furnish any false information in this application, I hereby agree that such act shall constitute cause for the suspension or revocation of the license to practice as a LPC in the State of Mississippi and forfeiture of the renewal fee(s).

6. The record further reveals that on March 30, 2017, in Cause Number 2017-034-CR2 in the Circuit Court of the Second Judicial District of Bolivar County, Mississippi, the Respondent was indicted and charged with unlawfully, willfully, and feloniously engaging in sexual penetration with N.S., a female child under the age of eighteen (18) years while serving "in a position of trust or authority over N.S. as the principal of the high school at which N.S. attended".

7. Respondent and her attorney appeared before the Board at the hearing and presented information regarding the nature of the Respondent's relationship with N.S. and the facts and circumstances surrounding the indictment. In addition, they argued that Question 17(c) is posed in the context of civil not criminal matters. Respondent stated that she thought the Question referred to garnishments, tax liens, or bankruptcies. She insists that she had no intent to mislead or conceal facts from the Board. In support of this contention, the Respondent pointed out that she knew the indictment would be revealed anyway from the background check which was to be conducted on her. The Respondent explained that she also consulted with her attorney who advised that the Board was interested in convictions and that she had not been convicted of a crime.

8. The Board received letters from several individuals in support of the Respondent's continued licensure as a LPC

Based upon the foregoing Findings of Fact, the Board makes the following:

CONCLUSION OF LAW

1. The Board has jurisdiction of this matter pursuant to Sections 73-30-7, 73-30-11 and 73-30-21. Venue is likewise properly placed before the Board to hear this matter in Jackson, Hinds County, Mississippi.

2. This matter was duly and properly convened and all substantive and procedural requirements under law have been satisfied.

3. The Board is authorized to license and regulate persons who apply for or hold

licenses to practice counseling and to prescribe conditions under which persons may practice to protect the public health, safety and welfare.

4. It is well settled in Mississippi jurisprudence that words are to be given their usual and ordinary meaning and that the use of dictionary for common usage and terminology is proper absent statutory definition. Black's Law Dictionary defines legal action as the: "Lawful pursuit for justice or decision under the law, typically leading to proceeding within the jurisdiction's court system. An entity accuses another for ... unlawful action, to protect an entity's rights from violation." The Free Dictionary defines legal action as "a judicial proceeding brought by one party against another; one party prosecutes another for a wrong done or for protection of a right or for prevention of a wrong". According to the Business Dictionary, legal action is the process of enforcing a nation's law's by proceeding within court system. One individual or entity prosecutes another for a criminal action or civil wrong doing, or to protect an individual or entity's rights from being violated".

5. The Board finds that the words "legal actions" in Question 17(c) mean both civil and criminal judicial proceedings. The Board further finds that the indictment described in the Findings of Fact against the Respondent clearly concerns a legal action related to her role as a school principal and interaction with a student at that school. Respondent was aware of this indictment at the time she completed and filed her LPC Renewal Application. Respondent had an obligation to disclose the indictment on her Renewal Application but failed to do so. Accordingly, the Board concludes that cause exists to discipline the Respondent pursuant to Section 73-30-21 in that her failure to disclose the indictment on her Renewal Application constitutes: i) swearing falsely under oath or affirmation in violation of Section 73-30-21(1) (c); and ii) obtaining a license by misrepresentation as prohibited by Section 73-30-21(1) (d)). By such conduct, the Respondent also failed to comply with applicable laws and regulations as required by Section 73-30-21(g) and Section C.1 of The American Counseling Association's Code of Ethics, which Code is made applicable to a Mississippi LPC pursuant to Section 73-30-13.

The Board considered all of the materials produced in the record before the Board, along with the Respondent's testimony, and has determined that the following order is appropriate:

ORDER

IT IS THEREFORED ORDERED that Respondent's license number 1159 is hereby REPRIMANDED.

IT IS FURTHER ORDERED that the Respondent shall submit monthly progress reports in writing concerning the status of the indictment found against her in Cause No. 2017-034-CR2, Circuit Court of the Second Judicial District of Bolivar County, Mississippi, The monthly reports to the Board shall commence on the first day of June 2018 and continue to be submitted on the first day of each month thereafter until the Cause is finally resolved.

IT IS FURTHER ORDERED that the Respondent shall cooperate with the Board, its attorneys, investigators, and other representatives in the investigation of Respondent's compliance with the provisions of this Final Order. The Respondent may be required to furnish the Board with additional information as may be deemed necessary by the Board or its

representatives. It is the Respondents' responsibility to fully comply with all such requests in the time and manner specified by the Board.

IT IS FURTHER ORDERED that the Respondent shall comply with the terms of this Final Order and all state and federal statutes and regulations concerning the practice of counseling. Failure to do so shall constitute a violation of this Final Order. The burden of proof for any action brought against the Respondent as a result of a breach of the conditions of this Final Order shall be on the Respondent to demonstrate compliance with this Order.

IT IS FURTHER ORDERED that correspondence, reports, notices and other communications mentioned, referenced or required in this Final Order shall be directed to: LeeAnn Mordecai, Executive Director, Mississippi State Board of Examiners for Licensed Professional Counselors, 239 North Lamar Street, Suite 402, Jackson, Mississippi 39201.

Any correspondence, reports, notices, documentation and other communications mentioned or referenced herein or required by this Final Order shall be deemed received by the Board when the Board's date stamp is affixed to said documentation or communication.

IT IS FURTHER ORDERED that this decision and opinion is a final order of the Board and is conclusive evidence of the matters described herein and may be considered by the Board in determining appropriate action in the event of future violation by the Respondent.

IT IS FURTHER ORDERED that this action and order of the Board shall be public record. It may be shared with other licensing boards (in- and out-of-state) and the public and may be reported to the appropriate entities as required or authorized by state and/or federal law or guidelines. This action shall be spread upon the Minutes of the Board as its official act and deed.

IT IS FURTHER ORDERED that upon execution of this Final Order by affixing the Board authorized signature below, the provisions of this Final Order shall become the final order of the Board.

SO ENTERED, this the 8th day of June 2018.

MISSISSIPPI STATE BOARD OF EXAMINERS FOR LICENSED PROFESSIONAL COUNSELORS

BY: Juawice McCormick PhD, LPC-S, NCC, NCSC, BC-TMH
JUAWICE MCCORMICK, PhD, LPC-S, NCC, NCSC
CHAIR