SOUTH DAKOTA
BOARD OF SOCIAL WORK EXAMINERS

IN THE MATTER OF
MELVA CHRISTENSEN,
LICENSED SOCIAL WORKER

DECISION

The Board of Social Work Examiners (Board) having received a complaint against Melva Christensen, a Licensed Social Worker, and having served Notice on her, and an administrative hearing having been held by the Board on March 19, 1996, pursuant to due and proper Notice of Hearing; and the Board being present by Walter Schaefer, Chairman, Eugene Ligtenberg, Mae Gunnare, and Judy Suess, members; and Chairman Schaefer recusing himself from consideration of this matter; and the hearing being conducted by R. K. Krogstad, Chief Hearing Examiner, Office of Hearing Examiners; and Melva Christensen appearing in person and by Sandra Hoglund, Esq., of Davenport, Evans, Hurwitz & Smith, Sioux Falls, South Dakota; and the Board being represented by Anthony M. Sanchez, Esq., Assistant Attorney General; now, therefore, the following Findings of Fact, Conclusions of Law and Decision are entered.

RESERVED RULINGS

The Deposition of Karen Witte-Clausen was submitted on Offer of Proof. The Deposition is received in evidence.

Pursuant to Memorandum and Order dated May 14, 1996, the Deposition and Exhibits of Dr. Cannell is received.

Pursuant to agreement of counsel at the hearing the 1995 Code of Ethics of the National Association of Social Workers shall be applied.

ISSUE

Should the Social Work license of Melva Christensen be revoked for a violation of SDCL 36-26-32(6) and the National Association of Social Workers Code of Ethics Sections 1A, 1D, and 2F(1), (2), (4), and (5)?

FINDINGS OF FACT

I.

Melva Christensen is a Social Worker licensed by the Board of Social Work Examiners.

II.

In 1989, Melva Christensen was employed by Children's Inn, Inc., Sioux Falls, South Dakota. Children's Inn is a social work provider for abused children and battered spouses and provided referral services.

III.

On or about August 8, 1989, [redacted] contacted Children's Inn about her son and spoke to Melva Christensen, who referred her to the Office of Child Protection Services of the State Department of Social Services.

IV.

Through the initial contact on August 8, 1989, and subsequent contacts a professional relationship was established between [redacted] and Children's Inn, including Melva Christensen and other staff that [redacted] saw.

V.

From August through December 1989, [redacted] considered Melva Christensen as her counselor and attended group therapy sessions at Children's Inn with Melva Christensen as one of the group facilitators.

VI.

[redacted] made specific attempts to come to Children's Inn when Melva Christensen was on duty because she felt that Melva Christensen appeared to genuinely care about her and her problems. Melva Christensen gave [redacted] her home telephone number and told her to call if she was in crisis.

VII.

Melva Christensen, while employed at Children's Inn, would meet [redacted] for coffee and they would go for drives and sit and talk. They had five or six off-premise meetings while Melva Christensen was employed at Children's Inn.

VIII.

On January 2, 1990, Melva Christensen became Executive Director of the Committee Against Rape and Domestic Violence (CARDV). It was announced at Children's Inn that she was leaving her employment there but there was no formal termination of her associations with any clients, including [redacted] because that was not the practice of Children's Inn.

IX.

[redacted] began counseling with Esther Guild at Family Services whose office was in the same building and on the same floor as CARDV. Esther Guild diagnosed [redacted] as having Post Traumatic Stress Disorder and Borderline Personality Disorder.

X.

Frequently, after attending counseling with Esther Guild at Family Services, [redacted] would come to Melva Christensen's office. Melva Christensen would help [redacted] by conversing about the therapy session just completed.

XI.

Melva Christensen and [redacted] also saw each other outside of the office for social occasions such as coffee, drives, visits, and parties such as Christmas from 1989 forward.

XII

There is insufficient proof to find that the relationship between Melva Christensen and [redacted] involved sexual relations.

XIII.

By mutual agreement, Melva Christensen moved into [redacted] house as a renter in December 1991. This was an inappropriate act for a professional licensed social worker.

XIV.

Both before and after moving into [redacted] house, Melva Christensen accompanied her on trips to Minneapolis for medical care, and to the Black Hills, Denver, and New York State for family visits. Such travel together exceeded the professional boundaries which a licensed social worker should establish with a client.

XV.

By September 1993 the personal relationship between Melva Christensen and [redacted] had deteriorated and Melva Christensen had rented an apartment with the intent of moving out of [redacted] house.

XVI.

In September 1993 [redacted] obtained an ex parte protection order against Melva Christensen from Circuit Court. The protection order was set aside by Court order on September 21, 1993.

XVII.

On or about September 23, 1993, Melva Christensen moved out of [redacted] house after a personal crisis between them.

XVIII.

A social worker licensed or certified by the Board of Social Work Examiners must agree to abide by the Code of Ethics of the National Association of Social Workers (NASW) as adopted by rule of the Board.

XIX.

[redacted] filed a complaint with the Board of Social Work Examiners that Melva Christensen had violated the Code of Ethics for Social Workers by engaging in a sexual relationship with her.

XX.

The Board of Social Work Examiners served notice on Melva Christensen that she had allegedly violated the Code of Ethics relating to standards of personal conduct, integrity, and the primacy of the client's interests.

XXI.

In a Social Worker -- Client relationship, a Social Worker must know and be aware of professional borderlines and boundaries that must be maintained between the Social Worker and the Client.

XXII.

Melva Christensen failed to maintain high standards of personal conduct in her relationship with [redacted] in that she allowed a violation of personal and professional boundaries.

XXIII.

Melva Christensen failed to act in accordance with the highest standards of professional integrity in that she allowed a professional relationship to become a personal relationship with a blurring of professional boundaries and functions.

XXIV.

Melva Christensen failed to accurately assess the needs of [redacted] and failed to apply maximum professional skill and competence in that she allowed a personal relationship to interfere with her devotion and loyalty to her client, [redacted]

XXV.

Melva Christensen exploited her relationship with [redacted] by moving into her house, even though she paid a minimal rent.

XXVI.

Melva Christensen failed to avoid relationships that conflicted with the interests of her client, [redacted] by developing a personal relationship, which included touching, hugging, and physical contact that exceeded professionally appropriate contacts.

XXVII.

It is not clear and convincing that Melva Christensen initiated and carried on a sexual relationship with [redacted]

OPINION

The profession of social work is an important, but often misunderstood, activity which is deeply involved in the lives and well-being of its clients. It is a profession requiring training and licensure, and having a commitment to an enforceable code of ethics. Social work is defined in SDCL 36-26-1(2) as:

> The professional activity for fee of helping individuals, groups, or communities enhance or restore their capacity for social functioning and creating societal conditions favorable for this goal. Social work practice consists of the professional specialized and disciplined application of social work skills secured

by formalized education or substitute work experience as permitted under section 36-26-15.

These are indeed solemn and profound obligations and the State of South Dakota has recognized this by enactment of SDCL Chapter 36-26, acknowledging the profession of social work and establishing and enabling the Board of Social Work Examiners, hereafter Board, for the purpose of overseeing the profession and protecting the public from inadequate practitioners. This is done by regulating the profession through testing, licensure, and enforcement of the code of ethics of the National Association of Social Workers, hereafter NASW, which was adopted by the Board. This is better stated in SDCL 36-26-1:

> Since the profession of social work profoundly affects the lives of the people of this state, it is the purpose of this chapter to protect the public by setting standards of qualification, education, training, and experience for those who seek to engage in the practice of social work and to promote high standards of social work. . . .

Melva Christensen, after being qualified and examined, was licensed by the Board as a Social Worker in South Dakota. She understood that through her licensure she became subject to the code of ethics of the NASW. See Transcript, page 191, line 24. A code of ethics is not just a document that a social worker, or any other professional, gives lip service to; it should become the guiding light of one's entire professional activity. A code of ethics, especially in a profession so profoundly involved in individual's lives, must by necessity even guide the practitioner's personal life outside of the workplace.

The relationship between a social worker and a client is a delicate relationship since the client has knowingly and willingly placed their problems in the hands of the practitioner and relies wholeheartedly on the practitioner for aid in working out the problems that bedevil them. The relationship is particularly delicate because the type of problem brought to a social worker is usually very personal. A professional relationship is established between the two that requires great care on the part of the social worker so that the client is helped and protected with professional skill, competence, and integrity. Many clients are unable to protect themselves from the world and must rely on their social worker in total. It is a position of trust that must not be violated.

A difficult question for social workers is when and how a professional relationship with a client is terminated. It is clear from the record that [redacted] was a client of Children's Inn and Melva Christensen was the licensed social worker with whom she developed a relationship. It is also clear that Children's Inn, because of the nature of their function as a receiving and referral agency, had no policy on termination of a social worker--client relationship.

Even if there had been a clear professional termination of the social worker--client relationship between the two, as far as [redacted] was concerned, there was a continuing counseling relationship between them on which she relied. Even if a professional relationship is formally terminated, the relationship once existed and many obligations continue to exist after termination; among them, the ethical considerations. Formal termination, even if correctly done, does not permanently erase or end the existing relationship; it may affect the parties in their social relationships outside of the professional relationship, and it may continue on an informal basis. A social worker must be aware of all aspects of the client's needs, desires, and hopes, and must constantly bear the professional relationship in mind, even if formally terminated. The client may not fully understand that one relationship is closed and another started, so it is up to the social worker to maintain the distance and dignity required. The social worker must be constantly aware of the objective relationship that a client may feel and want. As shown here, a dependence can be created, even unthinkingly, that wraps any other relationship between a social worker and a client in a morass of ethical problems. It is up to the social worker to know and understand these problems and to avoid them.

This boundary and borderline problem is shown clearly in the testimony of Esther Guild that another staff person in her office, who was a personal friend of [redacted] was advised that she should not talk to her when she was in the office for counseling. The professional relationship between [redacted] and Melva Christensen was created the moment that they first talked on the telephone on August 8, 1989, and [redacted] was referred to another agency for her problem. The record fails to disclose any point where [redacted] stopped coming to Melva for help, whether professionally or socially, and the professional relationship should have been a guiding factor throughout their relationship.

Esther Guild, a Qualified Mental Health Professional, testified, in regard to [redacted] that "...it's just common knowledge that we have a pretty disintegrated person here,..." Transcript, page 459, line 20. It is clear from the record that [redacted] is a person with severe problems who is searching for help. This should have been readily recognized by Melva Christensen by application of her professional skills and competence as a licensed social worker. Melva, through the contacts with [redacted] over the years allowed a dependent personality to continue a relationship that began

as a professional relationship and allowed it to develop into a social and personal relationship. It is predictable that an unprofessional relationship with a vulnerable client, even if there has been termination, may harm the client.

Melva Christensen failed to be aware of the continuing needs of [redacted] or, if she was aware of these needs, knowingly entered into a personal relationship in spite of this knowledge. She failed to stop the development of a relationship beyond the professional basis. As a licensed social worker, she should have been fully aware of [redacted] state of mind, of her problems, and of the potential disaster that could arise from non-professional involvement. Yet she allowed it to happen and may even have encouraged the development of the social relationship and used the friendship for her own purposes, such as renting a room from [redacted]
The lack of professionalism is further illustrated by the several trips that they took together, some for medical purposes, some for family purposes. Melva Christensen allowed herself to be used in non-professional ways, such as permitting herself to be introduced as the mother of [redacted]

It was agreed on the record that the hearing would be conducted and determined according to the 1995 edition of the NASW Code of Ethics. Melva Christensen is alleged to have violated several sections of this Code which are as follows:

I. The Social Worker's Conduct and Comportment as a Social Worker

A. Propriety. The Social worker should maintain high standards of personal conduct in the capacity or identity as social worker.

D, Integrity. (formerly IB.) The social worker should act in accordance with the highest standards of professional integrity and impartiality.

II. The Social Worker's Ethical Responsibility to Clients

F. Primacy of Client's interests -- The social worker's primary responsibility is to clients.

1. The social worker should serve clients with devotion, loyalty, determination, and the maximum application of professional skill and competence.

2. The social worker should not exploit relationships with clients for personal advantage.

4. The social worker should not condone or engage in any dual or multiple relationships with clients or former clients in which there is a risk of exploitation or potential harm to the client. The social worker is responsible for setting clear, appropriate, and culturally sensitive boundaries.

5. The social worker should under no circumstances engage in sexual activities with clients.

I.A. By her acts of establishing a non-professional social relationship with a client, or a former client, Melva Christensen displayed a disregard of professional personal conduct. Although she is fully entitled to a personal life and private conduct, this must be clearly separated from any conflict with her professional life and from her clients and former clients. This is a serious ethical violation.

I.D. Integrity is defined as "(r)igid adherence to a code of behavior; probity." A synonym of honesty. **The American Heritage Dictionary**, Second College Edition, 1991, Houghton Mifflin Co. Melva Christensen blurred the code of behavior she knew, or should have known, that she was required to adhere to--the NASW Code of Ethics. She should have been aware of the impact of her decisions and should have been aware of the conflicts between personal and professional values. She failed to deal with these value problems responsibly. Her integrity as a social worker was impaired by the social and personal relationship she developed and nourished with [redacted]

II.F.1. Any professional person knows that professional skills and competence cannot be properly applied when a business or professional relationship becomes a personal or social relationship. A social worker, because of their special relation with a client, must zealously guard against this. Melva Christensen failed to do so when she developed an outside relationship with [redacted]

II.F.2. The term "exploit" means to take advantage of unfairly, or to control to one's own advantage by artful or indirect means. **Roget's II, The New Thesaurus**, 1988, Houghton Mifflin Co. In any code of ethics for any profession, there is always an unwritten provision that the person subject to the ethical considerations should avoid even the appearance of unethical conduct. Although there is no direct evidence that Melva Christensen exploited [redacted] it could appear to be a problem to the general public by the fact that, for two years, she lived in [redacted] home, even though she paid $150 per month toward rent and utilities and assisted in buying groceries. This was a serious lapse of professionalism on the part of Melva Christensen since, as a trained and licensed social worker, she should have been aware of the nature of [redacted] problems and of her dependency and needs.

II.F.4. The facts here show a clear and convincing violation of this canon of ethics. Melva Christensen very clearly engaged in multiple relationships with a client, or, at the least, a former client. Due to the vulnerability of [redacted] there was, as shown by the facts, a severe risk of potential harm to the client or former client by the non-professional relationship in which she engaged. It is clear that Melva

Christensen was a counselor and social worker for [redacted] and that she failed to establish appropriate boundaries with her. If there were any borderlines or boundaries set, as a social worker should have, they do not show in the record of this hearing. We are left with a clear conviction that Melva Christensen failed to establish boundaries with [redacted] that she engaged in multiple relationships with [redacted] and that there was, at the least, a very distinct risk of harm involved.

II.F.5. The Board has carefully and thoroughly gone over the entire record of allegations of sexual abuse against Melva Christensen and is not clearly convinced that such abuse did occur. There was little, if any, corroboration, and all the testimony was from [redacted] The Board is aware of her previous allegations of sexual abuse against many persons. If there were any instances of sexual abuse by Melva Christensen, they have not been proven by clear and convincing evidence, and that is the test in an adjudication of a professional license. **In the Matter of Dr. David Zar**, 434 N.W. 2d 598 (S.D. 1989).

Clear and convincing proof has been defined over the years by the South Dakota Supreme Court. **Cromwell v. Hosbrook**, 81 S.D. 324, 134 N.W. 2d 777 (1965); **State v. Christopherson**, 482 N.W. 2d 298 (S.D. 1992). In **Lindquist v. Bisch**, 542 N.W. 2d 138 (S.D. 1996), citing **Brown v. Warner**, 78 S.D. 647, 107 N.W. 2d 1,4 (1961), the Supreme Court defined clear and convincing evidence as follows:

> The measure of proof required by this designation falls somewhere between the rule in ordinary civil cases and the requirement of our criminal procedure, that is, it must be more than a mere preponderance but not beyond a reasonable doubt. It is that measure or degree of proof which will produce in the mind of the trier of facts a firm belief or conviction as to the allegation sought to be established. Evidence need not be voluminous or undisputed to accomplish this.

The Board is the trier of facts in this instance and the decision must be by a majority of the Board. We have studied long and hard over the entire record in this matter as well as sitting at the hearing. We have determined that there was no clear and convincing proof that Melva Christensen did engage in sexual abuse or sexual exploitation of [redacted] We have determined that Melva Christensen did violate the other provisions of the Code of Ethics as alleged; that she did fail to maintain high standards of personal conduct, that she did not act with the highest standards of professional integrity, that she failed to apply the maximum professional skill and competence, that she exploited her client or former client, and that she became involved in a relationship with a client or former client that was outside boundaries that should have been, but were not, established by Melva Christensen.

CONCLUSIONS OF LAW

I.

The Board of Social Work Examiners has jurisdiction to hear and determine this matter and the Office of Hearing Examiners has authority to conduct this hearing for the Board.

II.

The license of a social worker may be revoked, suspended, or cancelled by the Board of Social Work Examiners upon a showing that the licensee has violated the code of ethics of the National Association of Social Workers.

III.

Melva Christensen failed to maintain high standards of personal conduct in her capacity as a social worker.

IV.

Melva Christensen, in her relationships with [redacted] failed to act in accordance with the highest standards of professional integrity as a social worker.

V.

Melva Christensen failed to apply maximum professional skill and competence by entering into non-professional social and personal relationships with [redacted] a client or former client, where Melva Christensen, by application of professional skill and competence, should have recognized that such non-professional relationships were unethical.

VI.

Melva Christensen exploited a professional relationship with a client or former client by moving into and living in [redacted] home, where Melva Christensen should have known that this was unethical.

VII.

Melva Christensen engaged in a dual or multiple relationship with [redacted] a client or former client, where there was a risk of potential harm to the client or former client; further, that Melva Christensen failed to set clear and appropriate boundaries in her relationships with [redacted] a client or former client.

VIII.

It was not proven by clear and convincing evidence that Melva Christensen engaged in sexual activities with [redacted]

DECISION

Based on the above and foregoing Findings of Fact and Conclusions of Law, it is hereby

ORDERED that the social work license of Melva Christensen is hereby suspended for a period of twelve months for violations of the Code of Ethics of the National Association of Social Workers as adopted by the Board of Social Work Examiners. It is further

ORDERED that following the period of suspension, Melva Christensen may comply with the following requirements:

1. She may reapply for licensure.

2. If reapplication is made, she shall obtain supervision for at least two hours per month for twelve months from a licensed social worker, psychologist, or licensed professional counselor, to be approved by the Board of Social Work Examiners, to assist her in monitoring and assessing her relationships with clients.

3. The supervising person shall make a written report to the Board of Social Work Examiners that Melva Christensen has or has not improved in establishing and maintaining professional boundaries with clients.

Upon completion of the period of suspension as herein ordered, and upon agreeing in writing to abide by the above requirements, Melva Christensen may apply for reinstatement of her license pursuant to SDCL 36-26-37.

Dated December 10, 1996.

BY THE BOARD OF SOCIAL WORK EXAMINERS:

Mae Gunnare

Judy Suess

Eugene Sigtenberg

CERTIFICATE OF SERVICE

I certify that on December 10, 1996, at Pierre, South Dakota, a true and correct copy of the Decision in the above-entitled matter was mailed to each party listed below.

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