

1 **BEFORE THE ARIZONA BOARD**
2 **OF BEHAVIORAL HEALTH EXAMINERS**

3 **In the Matter of:**

4 **Monique M. Gomez, LMSW-16886,**
5 **Licensed Master Social Worker,**
6 **In the State of Arizona.**

7 **RESPONDENT**

CASE NO. 2021-0170
2022-0026

CONSENT AGREEMENT

8 In the interest of a prompt and speedy settlement of the above captioned matter,
9 consistent with the public interest, statutory requirements and responsibilities of the Arizona
10 State Board of Behavioral Health Examiners (“Board”), and pursuant to A.R.S. §§ 32-3281(F)
11 and 41-1092.07(F)(5), Monique M. Gomez (“Respondent”) and the Board enter into this
12 Consent Agreement, Findings of Fact, Conclusions of Law and Order (“Consent Agreement”) as
13 a final disposition of this matter.

14 **RECITALS**

15 Respondent understands and agrees that:

16 1. Any record prepared in this matter, all investigative materials prepared or
17 received by the Board concerning the allegations, and all related materials and exhibits may be
18 retained in the Board’s file pertaining to this matter.

19 2. Respondent has the right to a formal administrative hearing at which Respondent
20 can present evidence and cross examine the State’s witnesses. Respondent hereby irrevocably
21 waives their right to such formal hearing concerning these allegations and irrevocably waives
22 their right to any rehearing or judicial review relating to the allegations contained in this Consent
23 Agreement.

24 3. Respondent has the right to consult with an attorney prior to entering into this
25 Consent Agreement.

1 4. Respondent acknowledges and agrees that upon signing this Consent
2 Agreement and returning it to the Board's Executive Director, Respondent may not revoke their
3 acceptance of this Consent Agreement or make any modifications to it. Any modification of this
4 original document is ineffective and void unless mutually approved by the parties in writing.

5 5. The findings contained in the Findings of Fact portion of this Consent Agreement
6 are conclusive evidence of the facts stated herein between only Respondent and the Board for
7 the final disposition of this matter and may be used for purposes of determining sanctions in any
8 future disciplinary matter.

9 6. This Consent Agreement is subject to the Board's approval, and will be effective
10 only when the Board accepts it. In the event the Board in its discretion does not approve this
11 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,
12 nor shall it be relied upon or introduced in any disciplinary action by any party hereto, except
13 that Respondent agrees that should the Board reject this Consent Agreement and this case
14 proceeds to hearing, Respondent shall assert no claim that the Board was prejudiced by its
15 review and discussion of this document or of any records relating thereto.

16 7. Respondent acknowledges and agrees that the acceptance of this Consent
17 Agreement is solely to settle this Board matter and does not preclude the Board from instituting
18 other proceedings as may be appropriate now or in the future. Furthermore, and
19 notwithstanding any language in this Consent Agreement, this Consent Agreement does not
20 preclude in any way any other state agency or officer or political subdivision of this state from
21 instituting proceedings, investigating claims, or taking legal action as may be appropriate now or
22 in the future relating to this matter or other matters concerning Respondent, including but not
23 limited to violations of Arizona's Consumer Fraud Act. Respondent acknowledges that, other
24 than with respect to the Board, this Consent Agreement makes no representations, implied or

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1 otherwise, about the views or intended actions of any other state agency or officer or political
2 subdivision of the state relating to this matter or other matters concerning Respondent.

3 8. Respondent understands that once the Board approves and signs this Consent
4 Agreement, it is a public record that may be publicly disseminated as a formal action of the
5 Board, and that it shall be reported as required by law to the National Practitioner Data Bank.

6 9. Respondent further understands that any violation of this Consent Agreement
7 constitutes unprofessional conduct pursuant to A.R.S. § 32-3251(16)(n) and may result in
8 disciplinary action pursuant to A.R.S. § 32-3281.

9 10. The Board therefore retains jurisdiction over Respondent and may initiate
10 disciplinary action against Respondent if it determines that they have failed to comply with the
11 terms of this Consent Agreement or of the practice act.

12 The Board issues the following Findings of Fact, Conclusions of Law and Order:

13 **FINDINGS OF FACT**

14 1. Respondent is the holder of License No. LMSW-16886 for the practice of social
15 work in the state of Arizona.

16 2. Respondent has been an LMSW since 10/17.

17 3. As part of her LMSW approval, Respondent received a letter which included the
18 following:

19 a. "As a Licensed Master Social Worker, you are subject to Practice Limitations
20 pursuant to A.A.C. R4-6-210 which requires that you practice under direct
21 supervision."

22 b. "As a licensed behavioral health professional, it is your responsibility to
23 review the Board's rules and statutes so you understand the standards to
24 which you will be held accountable."

25 4. On 12/31/20, Respondent submitted an LCSW application.

1 5. On 04/06/21, Respondent was notified that she failed her licensure examination.

2 6. On 05/05/21, Respondent submitted an application requesting approval to
3 provide behavioral health services as an associate level licensee in a private practice she
4 owned ("Private Practice"), along with a proposed independent level licensee to provide
5 Respondent with direct supervision.

6 7. The 05/05/21 application indicated Respondent was "currently providing services
7 via teletherapy/online."

8 8. As part of Respondent's 05/05/21 application, Respondent signed, initialed and
9 dated the following attestations:

10 a. "Misrepresentation by a supervisor, applicant or licensee may constitute
11 unprofessional conduct."

12 b. "Practice by a master's level non-independent licensee operating or
13 managing their own entity with immediate responsibility for the behavioral
14 health services provided by the licensee may not commence until receiving
15 the approval of the proposed supervisor and agreement between the
16 supervisor and supervisee."

17 9. The application raised concerns that Respondent may have been actively
18 providing psychotherapy services as a lower-level licensee in a private practice setting prior to
19 receiving Board approval.

20 10. Board staff conducted research that uncovered the following regarding Private
21 Practice:

22 a. Private Practice's website reflected her "therapeutic specialties" and
23 allowed clients to book psychotherapy sessions and psychiatric diagnostic
24 evaluations.

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- b. Private Practice's Facebook Page included a link for prospective clients to "book now" as well as posts advertising free consultations and group sessions dated as early as 12/26/20.
- c. Respondent's Psychology Today page indicated that Respondent offers online therapy and provided a link to Private Practice's website.
- d. Respondent's LinkedIn Page indicated she has been the owner of Private Practice since 11/20 and indicated Private Practice provides "individual, family and group counseling services."

11. On 05/17/21, Board staff contacted Respondent by phone and the following took place:

- a. Respondent acknowledged actively providing psychotherapy to clients at Private Practice.
- b. Respondent reported she was not aware of direct supervision rules.
- c. Respondent indicated she would stop providing psychotherapy through Private Practice.

12. Respondent's client records from Private Practice indicated the following:

- a. Respondent provided psychotherapy to five clients at Private Practice.
- b. Respondent began seeing clients as early as 12/11/20, before submitting her LCSW application.

13. Respondent represented the following to Board staff:

- a. Respondent has been practicing psychotherapy out of compliance until she was notified of her noncompliance by the Board on 05/17/21.
- b. Respondent was unaware that she needed a direct supervisor in Private Practice.

...

- c. Respondent's desire to help others made her impatient, so she failed to ask questions about whether or not she needed supervision.
- d. Respondent ultimately acknowledged that in 04/21, she learned that practicing at Private Practice without a supervisor meant she was non-compliant.
- e. Respondent decided to "roll the dice" by submitting her application.

14. Despite advising Board staff on 05/17/21 that she would stop providing psychotherapy to clients through Private Practice, it appears Respondent continued advertising for new clients on Facebook and Private Practice's website.

15. Respondent represented the following regarding her continuing advertisements:

- a. Respondent is trying to maintain visibility.
- b. The video on Respondent's Facebook page was not posted to actively recruit new clients.
- c. It would give people the impression that there is no help out there if Respondent wrote "out of business temporarily."
- d. Respondent had a plan to put prospective clients on a waitlist until the Board approved Private Practice.
- e. Submitting a new Supervised Private Practice application and waiting one month for it to be approved "seems redundant and annoying."
- d. "I will continue to advertise my skills even though I am not allowed to practice..."

16. After having conversations with Board staff, Respondent ultimately updated her various platforms to represent that Respondent was not currently providing behavioral health services at Private Practice.

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1 17. After being contacted by Board staff on 05/17/21, Respondent terminated
2 services with her Private Practice clients without making appropriate referrals.

3 18. Rather than providing referrals, Respondent notified her clients that due to a
4 compliance issue with the Board, Respondent would not be able to treat them until the matter was
5 resolved.

6 19. Although Respondent ultimately provided referrals to two of her five clients, the
7 referrals were not given promptly, as they were provided over two months after termination of
8 services.

9 20. Additionally, Respondent contacted one of her clients to request a testimonial.

10 21. Respondent represented the following regarding the requested testimonial:

11 a. Reaching out for a testimonial is appropriate because in their last session,
12 the client mentioned the gratitude he had and the benefits of his treatment
13 with Respondent.

14 b. Respondent was aware of NASW Code of Ethics section, 4.07(b) when she
15 asked the client for a testimonial.

16 c. Because of the client's "positive words and just how enthusiastic he was
17 about our treatment together, it seemed like a great entry point to solicit
18 that."

19 d. Respondent understands "it could put people in an uncomfortable
20 position..."

21 22. Respondent's documentation for her five Private Practice clients included the
22 following documentation deficiencies:

23 a. All five consents for treatment were missing the following required
24 elements:

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- The client's right to participate in treatment decisions and in the development and periodic review and revision of the client's treatment plan.
- The client's right to refuse any recommended treatment or to withdraw consent for treatment and to be advised of the consequences of refusal or withdrawal.
- The client's right to be informed of all fees that the client is required to pay and the licensee's refund and collection policies and procedures.

b. All five client records were missing the following required telepractice elements:

- Manner of identifying the client when using electronic communication that does not involve video.
- Verification of the client's physical location during the session and local emergency contacts.

c. Three out five treatment plans were missing the following required elements:

- The dated signature of the client.
- The dated signature of the licensee.

d. One treatment plan was missing the following required elements:

- One or more treatment methods.
- The date when client's treatment plan will be reviewed.
- The dated signature of the client.
- The dated signature of the licensee.

e. One client file did not have a treatment plan despite Respondent having provided services to the client for five months.

1 **CONCLUSIONS OF LAW**

2 1. The Board has jurisdiction over Respondent pursuant to A.R.S. § 32-3251 *et seq.*
3 and the rules promulgated by the Board relating to Respondent's professional practice as a
4 licensed behavioral health professional.

5 2 The conduct and circumstances described in the Findings of Fact constitute a
6 violation of A.R.S. § 32-3251(16)(k), engaging in any conduct or practice that is contrary to
7 recognized standards of ethics in the behavioral health profession or that constitutes a danger
8 to the health, welfare or safety of a client, as it relates to the ACA Code of Ethics:

9 **1.17.e, Termination of Services:**

10 Social workers who anticipate the termination or interruption of
11 services to clients should notify clients promptly and seek the transfer,
12 referral, or continuation of services in relation to the clients' needs and
13 preferences.

14 **4.07.b, Solicitations:**

15 Social workers should not engage in solicitation of testimonial
16 endorsements (including solicitation of consent to use a client's prior
17 statement as a testimonial endorsement) from current clients or from
18 other people who, because of their particular circumstances, are
19 vulnerable to undue influence.

20 3. The conduct and circumstances described in the Findings of Fact constitute a
21 violation of A.R.S. § 32-3251(16)(l), engaging in any conduct, practice or condition that impairs
22 the ability of the licensee to safely and competently practice the licensee's profession.

23 4. The conduct and circumstances described in the Findings of Fact constitute a
24 violation of A.R.S. § 32-3251(16)(p), failing to conform to minimum practice standards as
25 developed by the board as it relates to:

1 A.A.C. R4-6-1101, Consent for Treatment.

2 A.A.C. R4-6-1102, Treatment Plan.

3 A.A.C. R4-6-1106, Telepractice.

4 5. The conduct and circumstances described in the Findings of Fact constitute a
5 violation of A.R.S. § 32-3251(16)(ii), violating any federal or state law, rule or regulation
6 applicable to the practice of behavioral health, as it relates to:

7 A.A.C. R4-6-210. Practice Limitations

8 A.A.C. R4-6-211. Direct Supervision: Supervised Work Experience: General

9 **ORDER**

10 Based upon the foregoing Findings of Fact and Conclusions of Law, the parties agree to
11 the provisions and penalties imposed as follows:

12 **Stayed Suspension**

13 1. As of the effective date of this Consent Agreement, Respondent's license,
14 LMSW-16886, shall be **SUSPENDED** for 24 months. However, the suspension shall be stayed
15 and Respondent's license shall be placed on probation.

16 2. During the stayed suspension portion of the Order, if Respondent is
17 noncompliant with the terms of the Order in any way, the stay of the suspension shall be lifted
18 and Respondent's license shall be automatically suspended as set forth above.

19 3. If Respondent contests the lifting of the stay as it relates to this paragraph,
20 Respondent shall request in writing, within 10 days of being notified of the automatic
21 suspension of licensure, that the matter be placed on the Board agenda for the Board to review
22 and determine if the automatic suspension of Respondent's license was supported by clear and
23 convincing evidence.

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1 4. If the written request is received within 10 days of a regularly scheduled Board
2 meeting, the request will not be heard at that meeting, but will be heard at the next regularly
3 scheduled Board meeting.

4 5. Pending the Board's review, Respondent's license shall be reported as
5 suspended - under review. Respondent may not work in any capacity as a licensed behavioral
6 health professional pending the Board's review. The Board's decision and Order shall not be
7 subject to further review.

8 6. Respondent's license, LMSW-16886, will be placed on probation for 24 months,
9 effective from the date of entry as signed below.

10 7. Respondent shall not practice under their license, LMSW-16886, unless they are
11 fully compliant with all terms and conditions in this Consent Agreement. If, for any reason,
12 Respondent is unable to comply with the terms and conditions of this Consent Agreement, they
13 shall immediately notify the Board in writing and shall not practice under their license until they
14 submit a written request to the Board to re-commence compliance with this Consent
15 Agreement. All such requests shall be pre-approved by the Board Chair or designee.

16 8. In the event that Respondent is unable to comply with the terms and conditions
17 of this Consent Agreement, all remaining time frames shall be tolled and remain tolled until
18 such time as they are granted approval to re-commence compliance with the Consent
19 Agreement.

20 **Practice Termination Plan**

21 9. Within 14 days of the effective date of the Consent Agreement, Respondent shall
22 submit a written plan for terminating their private practice for pre-approval by the Board Chair or
23 designee. At a minimum, the proposed termination plan must include each of the following:

- 24 a. A written protocol for the secure storage, transfer and access of the clinical
25 records of Respondent's clients and former clients.

- b. The procedure by which Respondent shall notify each client and former client in a timely manner regarding the future location of the clinical records of Respondent’s clients and former clients and how those records can be accessed after the termination of Respondent’s practice.
- c. A written protocol for developing an appropriate referral for continuation of care for Respondent’s current clients.
- d. A list of Respondent’s current clients and the timeframe for terminating services to each client. The timeframe for terminating services shall not exceed 30 days.

Practice Restriction

10. While on probation, if Respondent engages in the practice of behavioral health, they shall do so only while working at a behavioral health agency licensed by the state of Arizona.

Clinical Supervision

11. While on probation, Respondent shall submit to clinical supervision for 24 months by a masters or higher level behavioral health professional licensed by the Arizona Board of Behavioral Health Examiners at the independent level. Within 30 days of the date of this Consent Agreement, Respondent shall submit the name of a clinical supervisor for pre-approval by the Board Chair or designee. Also within 30 days of the date of this Consent Agreement, the clinical supervisor shall submit a letter disclosing their prior relationship to Respondent. In that letter, the clinical supervisor must address why they should be approved, acknowledge that they have reviewed the Consent Agreement and include the results of an initial assessment and a supervision plan regarding the proposed supervision of Respondent. The letter from the supervisor shall be submitted to the Board.

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1 **Focus and Frequency of Clinical Supervision**

2 12. The focus of the supervision shall relate to current behavioral health
3 documentation standards in Arizona, Board statutes and rules, insight, working with vulnerable
4 clients, scope of practice, and social work ethics. Respondent shall meet individually in person
5 with the supervisor for a minimum of one hour weekly if working fulltime.

6 **Reports**

7 13. Once approved, the supervisor shall submit quarterly reports for review and
8 approval by the Board Chair or designee. The quarterly reports shall include issues presented in
9 this Consent Agreement that need to be reported and the supervisor shall notify the Board if
10 more frequent supervision is needed. Quarterly reports shall include the following:

- 11 a. Dates of each clinical supervision session.
- 12 b. A comprehensive description of issues discussed during supervision
13 sessions.

14 14. All quarterly supervision reports shall include a copy of clinical supervision
15 documentation maintained for that quarter. All clinical supervision documentation maintained by
16 the supervisor shall comply with requirements set forth in A.A.C. R4-6-212(C).

17 15. After Respondent's probationary period, the supervisor shall submit a final
18 summary report for review and approval by the Board Chair or designee. The final report shall
19 also contain a recommendation as to whether the Respondent should be released from this
20 Consent Agreement.

21 **Change of Clinical Supervisor During Probation**

22 16. If, during the period of Respondent's probation, the clinical supervisor determines
23 that they cannot continue as the clinical supervisor, they shall notify the Board within 10 days of
24 the end of supervision and provide the Board with an interim final report. Respondent shall
25 advise the Board Chair or designee within 30 days of cessation of clinical supervision by the

1 approved clinical supervisor and provide the name of a new proposed clinical supervisor. The
2 proposed clinical supervisor shall provide the same documentation to the Board as was required
3 of the initial clinical supervisor.

4 **GENERAL PROVISIONS**

5 **Provision of Clinical Supervision**

6 17. Respondent shall not provide clinical supervision while subject to this Consent
7 Agreement.

8 **Civil Penalty**

9 18. Subject to the provisions set forth in paragraph 19, the Board imposes a civil
10 penalty against the Respondent in the amount of \$1,000.00.

11 19. Respondent's payment of the civil penalty shall be stayed so long as Respondent
12 remains compliant with the terms of this Consent Agreement. If Board staff determines that
13 Respondent is noncompliant with the terms of this Consent Agreement in any respect, with the
14 exception of the tolling provision under paragraph 8, the stay of the civil penalty payment shall
15 be automatically lifted and payment of the civil penalty shall be made by certified check or
16 money order payable to the Board within 30 days after being notified in writing of the lifting of
17 the stay.

18 20. Within 10 days of being notified of the lifting of the stay, Respondent may request
19 that the matter be reviewed by the Board for the limited purpose of determining whether the
20 automatic lifting of the stay was supported by clear and convincing evidence. If the Board
21 receives the written request within 10 days or less of the next regularly scheduled Board
22 meeting, the request will not be heard at that meeting, but will be heard at the next regularly
23 scheduled Board meeting. The Board's decision on this matter shall not be subject to further
24 review.

25 ...

1 21. The Board reserves the right to take further disciplinary action against
2 Respondent for noncompliance with this Consent Agreement after affording Respondent notice
3 and an opportunity to be heard. If a complaint is filed against Respondent for failure to comply
4 with this Consent Agreement, the Board shall have continuing jurisdiction until the matter is final
5 and the period of probation shall be extended until the matter is final.

6 22. If Respondent currently sees clients in their own private practice, and obtains any
7 other type of behavioral health position, either as an employee or independent contractor, where
8 they provide behavioral health services to clients of another individual or agency, they shall
9 comply with requirements set forth in paragraphs 23 through 25 below.

10 25. Within 10 days of the effective date of this Order, if Respondent is working in a
11 position where Respondent provides any type of behavioral health related services or works in a
12 setting where any type of behavioral health, health care, or social services are provided,
13 Respondent shall provide the Board Chair or designee with a signed statement from
14 Respondent's employer(s) confirming Respondent provided the employer(s) with a copy of this
15 Consent Agreement. If Respondent does not provide the employer's statement to the Board
16 within 10 days of the effective date, the Board will provide Respondent's employer(s) with a
17 copy of the Consent Agreement.

18 26. If Respondent is not employed as of the effective date of this Order, within 10
19 days of accepting employment in a position where Respondent provides any type of behavioral
20 health related services or in a setting where any type of behavioral health, health care, or social
21 services are provided, Respondent shall provide the Board Chair or designee with a written
22 statement providing the contact information of their new employer and a signed statement from
23 Respondent's new employer confirming Respondent provided the employer with a copy of this
24 Consent Agreement. If Respondent does not provide the employer's statement to the Board
25 within 10 days, as required, Respondent's failure to provide the required statement to the Board

1 shall be deemed a violation of A.R.S. § 32-3251(16)(n) and the Board will provide Respondent's
2 employer(s) with a copy of the Consent Agreement.

3 27. If, during the period of Respondent's probation, Respondent changes
4 employment, resigns, is involuntarily terminated, resigns in lieu of termination, or goes on
5 extended leave of absence for whatever reason that may impact their ability to timely comply
6 with the terms of probation, Respondent shall, within 10 days of the aforementioned acts, inform
7 the Board of their change of employment status. After the change and within 10 days of
8 accepting employment in a position where Respondent provides any type of behavioral health
9 related services or in a setting where any type of behavioral health, health care, or social
10 services are provided, Respondent shall provide the Board Chair or designee a written
11 statement providing the contact information of their new employer(s) and a signed statement
12 from Respondent's new employer(s) confirming Respondent provided the employer(s) with a
13 copy of this Consent Agreement. If Respondent does not provide the employer's statement to
14 the Board within 10 days, as required, Respondent's failure to provide the required statement to
15 the Board shall be deemed a violation of A.R.S. § 32-3251(16)(n) and the Board will provide
16 Respondent's employer(s) with a copy of the Consent Agreement.

17 28. Respondent shall practice behavioral health using the name under which they
18 are licensed. If Respondent changes their name, they shall advise the Board of the name
19 change as prescribed under the Board's regulations and rules.

20 29. Prior to the release of Respondent from probation, Respondent must submit a
21 written request to the Board for release from the terms of this Consent Agreement at least 30
22 days prior to the date they would like to have this matter appear before the Board. Respondent
23 may appear before the Board, either in person or telephonically. Respondent must provide
24 evidence that they have successfully satisfied all terms and conditions in this Consent
25 Agreement. The Board has the sole discretion to determine whether all terms and conditions of

1 this Consent Agreement have been met and whether Respondent has adequately demonstrated
2 that they have addressed the issues contained in this Consent Agreement. In the event that the
3 Board determines that any or all terms and conditions of this Consent Agreement have not been
4 met, the Board may conduct such further proceedings as it determines are appropriate to
5 address those matters.

6 30. Respondent shall bear all costs relating to probation terms required in this
7 Consent Agreement.

8 31. Respondent shall be responsible for ensuring that all documentation required in
9 this Consent Agreement is provided to the Board in a timely manner.

10 32. This Consent Agreement shall be effective on the date of entry below.


11 33. This Consent Agreement is conclusive evidence of the matters described herein
12 and may be considered by the Board in determining appropriate sanctions in the event a
13 subsequent violation occurs.

14
15 **PROFESSIONAL ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT**

16 Monique M. Gomez
17 Monique M. Gomez (Aug 24, 2021 11:48 PDT)
18 Monique M. Gomez

16 Aug 24, 2021
17 Date

18 **BOARD ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT**

19 By: 
20 TOBI ZAVALA, Executive Director
21 Arizona Board of Behavioral Health Examiners

19 Aug 24, 2021
20 Date

22 **ORIGINAL** of the foregoing filed Aug 24, 2021
23 with:

24 Arizona Board of Behavioral Health Examiners
25 1740 West Adams Street, Suite 3600
Phoenix, AZ 85007

Aug 24, 2021

1 **EXECUTED COPY** of the foregoing sent electronically
to:

2
3 Mona Baskin
4 Assistant Attorney General
5 2005 North Central Avenue
6 Phoenix, AZ 85004

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Monique M. Gomez
Address of Record
Respondent