

BEFORE THE  
DEPARTMENT OF SOCIAL SERVICES  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MICHAEL HAWKINS, SHEILA HAWKINS  
aka SHEILA BRANTLEY, and JAMES  
MAGEE,

Respondents.

Case Nos. 6212219201  
6212219201B  
6212219201C

OAH No. 2012120301

**PROPOSED DECISION**

Administrative Law Judge Amy Yerkey, State of California, Office of Administrative Hearings, heard this matter on July 1 and 2, 2013, in Los Angeles, California.

David A. Warshaw, Senior Staff Counsel, represented Jeffrey Hiratsuka, Deputy Director of the Community Care Licensing Division (Complainant), for the Department of Social Services (Department), State of California.

Robert S. Shafer, Attorney at Law, represented Michael Hawkins (Respondent Michael), Sheila Hawkins (Respondent), and James Magee (Respondent James).

At hearing, Complainant moved to amend the Accusation by interlineation on page five, paragraph 22, line 5, to correct a typographical error. Respondents had no objection, and the motion was granted.

The matter was submitted on July 2, 2013.

**FACTUAL FINDINGS**

1. Complainant filed the Accusation in his official capacity.
2. The Department is the agency of the State of California responsible for the licensure of certified family homes family agencies pursuant to the California Community Care Facilities Act, Health and Safety Code section 1500 et seq.
3. Dangerfield Institute of Urban Problems (Dangerfield) is a foster family agency licensed by the Department to certify foster homes in which Dangerfield may place foster

children. Respondent and Respondent Michael received a Certificate of Approval from Dangerfield to operate a certified family home at 4546 Don Milagro Drive, Los Angeles, California (facility). The Department approved the facility as a certified family home on April 28, 2008. The Department subsequently issued an Order to Revoke Respondents' certification based on the events underlying the Accusation.<sup>1</sup> Dangerfield revoked Respondents' certificate of approval on July 31, 2013.

4. Respondent Sheila is also licensed by the Department to operate a family child care home at the facility. The family child care home was initially licensed on July 24, 2000. The Department seeks to revoke both the foster care and child care licenses.

5. Child number one began living in the facility as a foster child in August 2010. She was 15 years old at the time. Several months later, in approximately November or December 2010, Respondent James, Respondent's adult son, moved into the home. He was 25 years old; 10 years older than Child number one. Sometime in December 2010, the family had "movie night." After Respondent and her husband Respondent Michael went to bed, Respondent James stayed up and watched movies with Child number one. He began to flirt with Child number one and asked her to play a game with him. One thing led to another, and eventually Respondent James kissed Child number one and had sex with her in the kitchen and family room of the facility. Respondent and Respondent Michael were present in the facility at the time.

6. Child number one credibly testified at the hearing. As established by her testimony, the sexual encounter between her and Respondent James was initially consensual. They continued a sexual relationship throughout the course of the next year, although Child number one did not consider Respondent James to be her boyfriend. She described that he would initiate sex with her by texting her or messaging her on Facebook, or by waking her up at night after everyone else had gone to sleep. They had sex in the facility while Respondent and Respondent Michael were present in their bedroom. She estimated that they had sex approximately two times per month for about 13 months, for a total of at least 26 times. Child number one described that Respondent Magee had her perform oral sex on him almost every time that they had intercourse. She also recalled that he used condoms most of the time, but there were times that he did not. One time, he bought and required Child number one to take a "Plan B" pill, which is a type of emergency contraception that may prevent pregnancy after unprotected sex. Another time, he used a blue rubber glove from his EMS kit in lieu of a condom.

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<sup>1</sup> Although the Accusation states that it attached a copy of the Department's Order to Revoke in Attachment A to Exhibit 1, no such document was found in its exhibits.

7. Around December 2011, Child number one decided that she no longer wanted to engage in sexual relations with Respondent James. Her 2012 New Year's resolution was not to have sex with Respondent James ever again. Thereafter, in March 2012, Child number one recalled that she had her menstrual period and suffered from bad cramps. Respondent gave her a pain pill that made her act "goofy." Later, Child number one was watching television when Respondent James joined her and asked her if she wanted to have sex. Child number one told him "no," she did not want to have sex with him. He then asked her if she wanted to smoke marijuana, and she agreed. Child number one recalled that she felt "high" from smoking, and that her body felt weak. She attempted to go to bed and Respondent James followed her into her bedroom. She told him that she was tired. He pressured her to have sex with him, and told her to "shh" so as not to wake his parents. He started kissing her and touching her body over her clothes, until he felt between her legs and realized that she was wearing a sanitary pad. He remarked that Child number one had her period. She again told him to stop, but he ignored her and continued to kiss her neck and her breasts. Then he unbuckled his pants and took out his penis. He told Child number one to "suck it." She again stated that she did not want to. He persisted and continued to beg her to give him a "blow job." Child number one recalled that she couldn't focus on anything and her body began to shake. Respondent James told her "it's okay" and then he put his hand on her shoulder and pushed her down. In her weakened state, Child number one fell to her knees. Respondent James then forced his penis in Child number one's mouth, and held her head with one hand and his penis with the other. He moved her head back and forth. At one point, he let her breathe, and Child number one told him again, "I don't want to do this." Respondent James replied, "just a little bit longer," and then reinserted his penis in her mouth and repeated the same maneuver. Child number one started coughing and pushed on his waist. Finally, Respondent James relented. Child number one stood up and Respondent James instructed her to go straight to sleep, but she did not. These events occurred inside the facility, while Respondent and Respondent Michael were present.

8. The next day, Child number one was crying at school because of the events the night before. She told her friends what had occurred, and one of them wanted to tell the authorities. Child number one did not want anyone to know, and she became angry with her friend. Eventually, her friend told a counselor. When confronted by the dean of her school and a therapist, Child number one denied that she had been raped. She explained that she did not think it was rape because oral sex, and not vaginal sex, had occurred. She also explained that she did not tell anyone what was happening with Respondent James while she was living with Respondents because she did not want anyone to know. Child number one was immediately removed from the facility. Respondent James was subsequently arrested, and the criminal investigation is still pending.

9. Contemporaneous with the events, Child number one kept a journal where she detailed what had occurred between her and Respondent James. Her version of the events was

remarkably consistent throughout the proceedings, from what she told her friends, to what she told the authorities, to what she wrote in her journal, to her testimony on both direct and cross examination at the hearing. She had appropriate and vivid recall of what occurred, including admitting facts which cast her in an unfavorable light. Accordingly, Child number one's testimony is deemed credible.

10. Brandi Bakewell (Bakewell) testified at the hearing. She is employed as a Marriage and Family Therapist intern at the Southern California Counseling Center. On March 21, 2012, she went to Hamilton High School, where Child number one attended, to visit a client who was Child number one's friend. Child number one's friend told Bakewell about the incident with Respondent James. Bakewell's client was concerned and she wanted Child number one to report it. After Bakewell learned of the allegations, she spoke directly with Child number one. She explained that she was a mandated reporter, and that she had reason to believe that Child number one was being abused. Child number one began to cry, and told Bakewell that everything was fine, and that she did not want Bakewell to make the report. Bakewell then told Child number one that no one has the right to touch her body if she does not want them to, and Child number one continued to cry. Eventually, Child number one told Bakewell that she was afraid to go home. Bakewell reported the incident to the Department of Children and Family Services (DCFS).

11. DCFS employees Mildred Lorenzana-Florido (Florido) and Irma Rubio (Rubio) testified at the hearing. Florido is an out-of-home care investigator who was assigned to investigate the allegations regarding Child number one and Respondent James. She interviewed Respondent, who denied that Respondent James lived in her home. Rubio interviewed all five foster children living in the home, and four of five stated that Respondent James lived at the facility, with two children describing in detail the room in which he lived. Florido opined that Child number one was consistent in her story, was able to provide details of the allegations, and believed that she told the truth. Their testimony further supports the credibility of Child number one.

12. Jesse Murphy (Murphy), police officer with the Los Angeles Police Department, testified at the hearing. Murphy was assigned to investigate the allegations against Respondent James, and he participated in interviewing him. As established by Murphy's testimony and the arrest report (Ex. 6), Respondent James initially denied ever having a relationship with Child number one, but then later admitted to two incidents. Respondent James told different versions of the facts, and described Child number one as the aggressor. He admitted to having sex with Child number one, but claimed that he stopped the intercourse at some point. In contrast, the statement that Child number one gave to the police was consistent with her prior recollection of the events, with her journal entry, and with her testimony at hearing. For these reasons and as

described above, Child number one's version of the events is credited over Respondent James' story.

13. Joddi Hundessa (Hundessa) testified at the hearing. Hundessa has been employed as a social worker for the Dangerfield Foster Family Agency (Dangerfield) for 11 years. Dangerfield certifies, trains and prepares parents to become foster parents. Hundessa's role is to work with children, and she visited the foster children approximately one time per week. Child number one complained to Hundessa that her biological father falsely conveyed to Respondents that Child number one was untrustworthy, especially around boys. Hundessa advised Child number one to discuss the issue with Respondents. Hundessa was aware of some of the allegations in this proceeding. Currently, Dangerfield has de-certified Respondents as foster parents. (Exh. 3.) She opined that Dangerfield would defer to the Department on whether Respondents should remain a licensed foster home. If Respondents remained licensed, Hundessa said that Dangerfield would continue to place foster children in Respondent's home, subject to certain provisos such as only two male children be permitted at a time. Hundessa opined that Respondents should be permitted to continue child care because there are no overnight child care visits, and because the children in foster care have different needs than those in the daycare. On cross examination, Hundessa acknowledged that she did not know the details of the investigation because Dangerfield was not permitted to get involved in the investigation. She was unaware that Child number one was raped at the facility. She had also not reviewed the investigation or other reports, because Dangerfield was not privy to the reports. Given her lack of knowledge about the circumstances, Hundessa's opinion is given little weight.

14. Nathaniel Session (Session) testified at the hearing. Session works for Session Concierge Enterprises, in various capacities including as a pastor and a parent advocate. Session was assigned to assist Respondents in May 2011, and worked with Respondents for approximately 10 months. Session visited their home several times per week. He opined that they are great foster parents, because they kept a clean and structured home, and they were proactive and engaged. Session admitted that he did not interact with the foster children at all, because his role was that of parent advocate. He also stated that he was not assigned to assist with Child number one. He was also not present in the home late at night, when the incidents concerning Child number one occurred. At the hearing, he was only vaguely familiar with the allegations in this proceeding, but claimed they did not change his opinion. Session was unaware of any sexual activities that had occurred in Respondents' home. Given his lack of knowledge of the pertinent issues, Session's opinion is given little weight.

15. Janis Blount (Blount) testified at the hearing. Blount has known Respondent for 20 years and has known Respondent Michael for approximately three years. Respondent

previously provided child care for Blount's daughter. Blount opined that Respondent was a great problem-solver with children. Blount had no knowledge about the allegations in this proceeding, and lacked understanding of the issues. Accordingly, her opinion is also given little weight.

16. Respondents testified at the hearing.<sup>2</sup> Respondent Michael has been married to Respondent for five years. Together they were issued a foster care license in 2008. Prior to becoming a foster parent, Respondent Michael had no parenting experience; Respondent James is his step-son. Respondent Michael denied that Respondent James lived at the home, but admitted that he stayed over multiple times during the week. In addition, Respondent Michael stated that his job as an electrician kept him away from the home for extended periods. When Respondent Michael was home sleeping, he was unaware of what occurred in the home. Respondent Michael has vaguely discussed the allegations in this matter with Respondent James but was not willing to address the underlying issues, instead stating "let the courts decide."

17. Respondent also denied that Respondent James lived in her home, but admitted that he stayed there frequently. Respondent James admitted to her that he had sex with Child number one, but blamed Child number one as the aggressor. He claimed that he was afraid to discuss it with Respondent because she was strict and would not believe him. Respondent denied any knowledge of a relationship between Respondent James and Child number one, claiming that she never even saw them speak to one another. She also denied that Respondent James drank or used drugs, and painted him as a "perfect child." Respondent thinks that Child number one blackmailed Respondent James, but her opinion was speculative and there was no evidence to support this theory. Respondent spoke to her son after his arrest, but has not since discussed the incidents with him. Respondents' version of the events was not credible. Child number one's statements were more credible because she had appropriate recall and provided details of what occurred; she also admitted to information that was unfavorable to her. By contrast, Respondents' statements were entirely self-serving, and likely motivated by self-preservation. They have strong incentive to not be truthful, considering that Respondents' licenses and Respondent James' liberty are at stake.

17. Except as set forth in this decision, all other allegations in the Accusation or defenses raised by the parties lack merit or constitute surplusage.

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<sup>2</sup> Respondent James Magee took the stand but declined to give testimony, citing his Fifth Amendment right against self-incrimination. No inferences were drawn based on his invocation of that right.

## LEGAL CONCLUSIONS

1. Cause exists, pursuant to Health and Safety Code<sup>3</sup> sections 1534, subdivision (b), 1558, and California Code of Regulations, title 22, sections 89372, 89378, 102417, and 102423 to revoke Respondents' Certificate of Approval to operate the facility, and Respondent's license to operate a family day care, for lack of care and supervision, and for violating the personal rights of Child number one, as set forth in Factual Findings 5 through 12.

2. Cause exists pursuant to section 1596.885, subdivision (c), to discipline Respondents' licenses because they engaged in conduct inimical to the health, morals, welfare, and safety of clients in facilities licensed by the Department and to the health, morals, welfare, and safety of the people of the State of California, by reason of factual finding numbers 4 through 12 and legal conclusion number 1.

3. All evidence in mitigation and rehabilitation has been considered. However, this evidence is minimal and the violations are serious and recent. Significantly, a child was drugged and raped in the facility while Respondents were present. Respondents sought to blame the victim and failed to see their part or take any responsibility for what occurred. Respondents also had repeated instances where their lack of supervision brought harm to Child number one, by their own family members and by their inattention. Respondents failed to take simple precautions to protect children in their facility from incidents like this from occurring, and their denial about their son's behavior demonstrates that they are incapable, at this time, of providing protection to any child in their home, whether a foster child or day care client. Given the foregoing, the order that follows is necessary for protection of the public.

## ORDER

1. Respondents Sheila and Michael Hawkin's Certificate of Approval to operate a certified family home is revoked.

2. Respondent Sheila Hawkins, a.k.a. Sheila Brantley's license to operate a family day care is revoked.

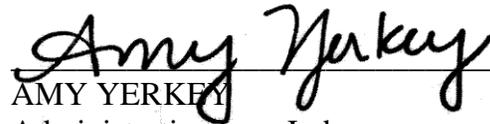
3. Respondent James Magee is prohibited for the remainder of his life, from employment in, presence in, and from contact with, clients of any facility licensed by the

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<sup>3</sup> All further statutory references are to the Health and Safety Code.

Department and from being a member of the board of directors, an executive director, or an officer of a licensee of any facility licensed by the Department.

DATED: August 1, 2013

  
AMY YERKEY  
Administrative Law Judge  
Office of Administrative Hearings