

Attorney for Petitioner

Attorney for Respondent

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

In Re the Marriage of:)	CASE NO.:
)	
Petitioner:)	STIPULATION AND ORDER FOR
)	APPOINTMENT AND PAYMENT
and)	OF MARY ELIZABETH
)	LUND, PH.D. and/or
Respondent:)	ANGUS STRACHAN, PH.D.
)	and/or _____
_____)	(circle as appropriate)

PURSUANT TO EVIDENCE CODE, SECTION 730, IT IS HEREBY ORDERED and STIPULATED by and between the parties through their respective counsel of record to the appointment of MARY ELIZABETH LUND, PH.D., and/or ANGUS STRACHAN, PH.D., and/or _____ to interview the parties and the minor child(ren) (insert children's names and birth dates and names of stepparents and/or significant others): _____

and any other person(s) deemed advisable by the evaluator for the purpose of making findings and recommendations to the Court

RE: CUSTODY: _____, VISITATION: _____, OTHER: _____

_____.

Counsel are directed to contact the office of Lund & Strachan, Inc., telephone number: (310) 392-6163, fax: (310) 392-6043, to arrange for payment of a Fee Deposit of \$5000 (unless negotiated otherwise) within five (5) court days of the Stipulation/Court Order date.

Fees may be paid by cashier's check or by credit card with signed authorization. Cashier's checks for fees are to be made payable to LUND & STRACHAN, INC., and delivered or mailed to: 2510 Main Street, Suite 201, Santa Monica, CA 90405.

After receipt of the Fee Deposit and signed Stipulation or Order, the evaluator's office shall schedule initial evaluation sessions on the first available appointment date.

An Order naming the evaluator or the Conformed Stipulation must be provided three weeks (21 days) prior to the date of the first appointments so the evaluator can file with the court the necessary declaration concerning evaluator education and training prior to the first appointments. If receipt of the Order or Conformed Stipulation is past the due date, the first day of evaluation sessions may be rescheduled to the evaluator's next available date.

Counsel may request a conference call to discuss issues in the case with the evaluator. There will be no unilateral communication about issues in the case.

Neither counsel nor parties shall engage in unilateral communication, (e.g., by mail or telephone) with the evaluator unless in response to his or her request. The evaluator may discuss procedures or fees with one party's counsel.

The deposit may be increased if the evaluator receives requests from counsel to do procedures or review materials that are in excess of what is customary for a psychological custody evaluation.

Counsel for the parties may request various methods for limiting or containing expenses or expediting the completion of the evaluation in order to meet the needs of the parties. Such requests must be done in a conference call with counsel for both parties (and minor's counsel, if applicable). If the parties and their counsel agree, the evaluation may be performed using specific, limited procedures and/or specific, limited ways of reporting results. This estimate of fees for a limited evaluation is not binding; parties agree to pay for the actual cost of the procedures and report preparation. The parties and their counsel will be notified if the procedures, necessary to address issues regarding custody and visitation raised by the parties, will necessitate fees in excess of the estimated fees for a limited evaluation.

All out-of-pocket expenses, including but not limited to the administrative fee of \$750.00, typing, messenger services, etc., shall be charged back to the party or parties responsible for the payment of the evaluation fees. The administrative fee may be increased if the evaluator's office receives requests that are in excess of what is customary for a psychological custody evaluation. The evaluator's professional time for interviews, testing, preparation of report, etc., will be charged at: \$_____ /hour. After the initial Fee Deposit has been

depleted, the parties will pay an additional Fee Deposit prior to further evaluation procedures and report preparation.

The fees for the evaluation shall be paid as follows (please check one): _____ Petitioner; _____ Respondent; _____ 1/2 by each party; or _____ Other. The Court (please check one) _____ may or _____ may not adjust responsibility for fees at the time of hearing.

Counsel should provide information about the judicial officer and the court for the case, the parties' addresses and home and work telephone numbers, and the hearing date for which the report is needed. It is counsel's responsibility to communicate with the evaluator to determine if it is possible for the evaluator to complete the report in time for the scheduled hearing date. The parties' counsel are responsible for notifying the evaluator of any changes counsel make in the originally scheduled hearing date. The evaluator will notify counsel if the report cannot be completed by the hearing date and provide information about when the report could be completed.

During the first evaluation appointment, the evaluator will discuss the Informed Consent regarding Evaluation Procedures and parties shall sign the Informed Consent. The parties and their counsel are provided with the Informed Consent in advance, for their review. Counsel should direct the parties to contact the evaluator's office to make initial appointments at the evaluator's office (310) 392-6163.

Cancellation of the initial evaluation sessions by the parties must be by the parties' or attorneys' joint written

agreement and reach Lund & Strachan, Inc., fourteen (14) court days prior to the first scheduled appointment date to avoid additional fee charges. If a Court Order naming the evaluator or a Conformed Stipulation has not been received two court days prior to the scheduled first day of sessions for the evaluation, the evaluator may cancel the first day of sessions and charge for all sessions scheduled for the case within the next 14 days. The fixed administrative fee of \$750.00 plus any fees incurred shall be charged against any canceled evaluation. Other evaluation appointments not kept or canceled less than seven (7) court days in advance shall be charged at the session rate. The parties are responsible for scheduling and verifying any cancellations of appointments.

Each party hereby waives all statutory and nonstatutory privileges, including his or her respective doctor-patient and psychotherapist-patient privilege so as to permit the evaluator to have access to health, mental health, education, employment, and other similar records, to confer with health care providers, therapists, educators, and other persons whom the evaluator deems necessary for the purpose of performing the evaluation and for them to confer with the evaluator. Each party shall execute authorizations for release of information to provide the evaluator access to such records or persons.

The evaluator may use assistants or consultants in the collection of information for the evaluation. The cost of services by assistants or consultants will be charged at their usual professional rate included in the fees for the evaluation.

Any assistants or consultants to the evaluator shall be deemed to perform an arbitral function and have the same quasijudicial immunity that applies to the evaluator. If consultants are called as witnesses in the case, they shall be treated as expert witnesses.

The parties agree to cooperate in the evaluation. When deemed advisable by the evaluator, the parties and/or minor child(ren) shall submit to other assessments; such as, drug and alcohol testing, psychological testing, etc. The cost of such tests is separate from the fees submitted to Lund & Strachan, Inc., for the primary evaluation. Fees for additional testing shall be paid in advance directly to the designated expert by the party or parties ordered to pay the fees for the evaluation.

The parties will bring three copies of their Detailed History Questionnaire, the Collateral Contact Information Form, and the Custody Release of Information Form to the first day of evaluation appointments. They will provide the original of these forms to the evaluator and give the other party two copies. It is the responsibility of each party to provide his/her attorney copies of these forms from both parties. If either party furnishes any ancillary material to the evaluator, they shall first submit it to their counsel who will copy it to opposing counsel. Ancillary material should not be submitted later than six weeks from the time of the first appointment, subject to the discretion of the evaluator. Only copies of materials should be submitted to the evaluator. The evaluator shall not be held responsible for receipt of originals of any materials nor for insuring that

parties have provided copies to opposing counsel. If video-taped or audio-taped material is submitted, it is up to the parties' counsel to determine whether such taping was done legally and can be provided to the evaluator.

The evaluator has the right to determine, in his or her professional opinion, the information that he or she deems significant and relevant to the custody matter and the procedures necessary to obtain that information.

The evaluator is permitted to consult with or exchange information with professionals and other collateral informants he or she deems appropriate in conducting this evaluation and preparing the report.

The evaluator may ask for separate voluntary consent from the parties to allow other mental health professionals, who are training to become evaluators, to observe evaluation interviews; if each party does not sign a consent to be observed, there will be no observation. The evaluator may discuss the case with other mental health and legal professionals, without naming the parties or giving specific identifying information, in order to receive consultation on the case and/or for training and research purposes.

No reporting of results and no recommendations will be made prior to completion of the evaluation and the release of the report or a feedback session. The evaluator will not intervene in issues during the evaluation except as required of psychologists to report suspected abuse of children or warn a potential victim of danger. If the parties and their counsel agree, names for

several mediators and/or psychotherapists may be provided for urgent problems occurring during the evaluation. The evaluator is not responsible for the services of those psychotherapists and/or mediators. The evaluator may make requests of family members to communicate with each other and/or address ongoing problems as part of assessing issues in the evaluation. The evaluator may or may not disclose information about the case to the parties and question the parties about the information as part of assessing issues in the evaluation.

The evaluator may determine who should be present for evaluation sessions. All members of both parties' households must attend an interaction session including the minor child(ren) at issue. Both parties will attend an evaluation session together unless there are restraining orders against their contact with each other.

The attorneys are responsible for informing the evaluator prior to the first evaluation sessions of any safety issues that may require a modification of procedures. If there are allegations of domestic violence and/or child abuse in the above captioned matter, parties' counsel shall make a full disclosure of all allegations and provide all ancillary material relating to any incidents. Either party may request special procedures for an evaluation session attended by both parties in order to provide for the parties' security. Any cost for security will be charged to the evaluation. If the evaluator has concerns about safety issues when the report is released, the evaluator may release all copies of the report to the court with a cover letter indicating

reasons for concern, and the court shall determine how the report is released.

The evaluator may request that other household or family members (such as stepparents, step-siblings, and/or significant others) consent to participate in the evaluation and, when deemed advisable by the evaluator, submit to other assessment. Unless these other adult household or family members (or both legal custodial parents of minor household or family members) give written consent to participate in the evaluation, they will be treated as collateral informants and no results of the evaluation will be reported on issues concerning these household or family members.

The evaluator may request, when deemed advisable, that the parties waive their right to access to statements by the minors at issue in the above captioned case. If the parties give written consent to waive their right to minor's statements, the statements of the minors at issue shall be included as an addendum to the report, accessible only to the parties' counsel and judicial officer hearing the case. The report of the results of the evaluation may include reference to children's statements. The parties and their counsel may decide whether to waive their right to a waiver of access to children's statements. Their lack of consent to this waiver of access to children's statements shall not be reported in the results of the evaluation and shall not have any bearing on recommendations in the case.

There shall be no reporting of results prior to payment of all fees due for the evaluation. Payment of fees is due at the

evaluator's office within (5) court days of notification of fees due for the evaluation.

The evaluation report shall be released to the Court and copies provided to counsel of record (or parent In Pro Per) at the same time, when final fees for the evaluation are received.

The evaluator may request that there will be an oral presentation of results from the evaluation in a "feedback session" with the parties and their counsel in the place of, or in addition to, a comprehensive report from the evaluation. If the evaluator or the parties request a feedback session in place of a comprehensive report, the evaluator will provide a limited report to the court and to the counsel of record. The limited report will give detailed recommendations and a brief discussion of results pertaining to those recommendations. During the feedback session, the evaluator will present to the parties and their counsel information that would be included in a comprehensive report. The oral presentation will include details of results from the interviews of family members and collaterals, psychological testing, and ancillary material that supports conclusions reached and recommendations made. All fees for the evaluation, including the preparation for the reporting of results and the feedback session must be received at the evaluator's office seven (7) working days prior to the scheduled feedback session or the session will be canceled and the limited report not released to the court or counsel.

After a feedback session with a limited report, either party may request a comprehensive written report including the details

presented in the feedback session. Unless there are monies still on deposit, the comprehensive report will not be prepared until a further deposit is received for the estimated time to produce a comprehensive report.

If there is an oral feedback session, counsel for both parties (and minor's counsel if applicable) will attend the feedback session with the parties, unless there is a different agreement among the parties. There will be no unilateral communication between the evaluator and the parties or counsel during the feedback session, unless there is a different agreement among the parties. Statements made by parties and their counsel during the feedback session will be considered not confidential, unless there is a different agreement among the parties. After the evaluator's presentation of results in a feedback session, the parties and/or their counsel may question the evaluator and may inspect the file during the feedback session.

Information contained in the file may be released in the above captioned Family Law matter only by subpoena or Court Order. There shall be a fee for file retrieval and duplicating expenses. The subpoena shall be mailed or delivered to MARY ELIZABETH LUND, Ph.D./ANGUS STRACHAN, Ph.D. or _____ with at least fifteen (15) court days notice. Some materials may not be reproducible due to copyright laws. Counsel and parties are not permitted access to psychological test data. Psychological test data will only be released under conditions of subpoena or Court Order to a psychologist designated in the subpoena or Order as that party's expert who will review psychological test data; the

evaluator, as a psychologist, may refrain from releasing test data to protect a client/patient or others from substantial harm or misuse or misrepresentation of the data or the test, recognizing that in many instances, release of confidential information under these circumstances is regulated by law.

The evaluator and/or evaluator's consultants may only be called upon to testify as expert witnesses (not as percipient witnesses) in deposition and/or at trial in the above-captioned case in the Family Law Department of the Superior Court if at least one party via his or her counsel so requests and makes advance payment. Notification shall be by subpoena and delivered or mailed directly to MARY ELIZABETH LUND, Ph.D., ANGUS STRACHAN, Ph.D., or _____ with the fee at least fifteen (15) court days in advance of deposition or trial date. The fee for deposition or court testimony is \$3,000.00 per day. An exact date and times of testimony must be scheduled; the evaluator shall not make arrangements to be on call. Expert testimony fees are charged for a full day of the evaluator's time unless the evaluator specifically agrees to appear for a half day at the rate of \$2000.00 for four (4) hours. This fee includes preparation time. Any appearance time required beyond the first day shall be billed at the same daily rate and is payable prior to testimony. If the appearance at trial or deposition is canceled 72 hours in advance, excluding Saturdays, Sundays, and holidays, the entire deposit shall be refunded. If the appearance is canceled with less than 72 hours notification, but in sufficient time so that the evaluator does not come to court or deposition,

one-half of the deposit shall be refunded. There is no refund for cancellations received on the day of the scheduled appearance.

If the evaluator is requested to review his or her deposition related to the above captioned case, the attorney making that request shall furnish to him or her the transcript at no cost for his or her review. The fee for review is \$4.00 per page and shall be paid by Cashier's Check or Money Orders at the time the deposition is submitted for review.

All information gathered for the pending child custody evaluation is restricted to the Family Law Department of The Superior Court and shall not be released for any other purpose or matter except by court order.

The evaluator or the evaluator's consultants shall not be called upon to testify in any other matter related or unrelated to the above-captioned case or as a percipient witness in this matter.

The parties agree that they shall indemnify and hold the evaluator, Lund & Strachan, Inc., the evaluator's assistants, consultants, and the staff of the evaluator's office harmless from any claims, demands, causes of action, damages of loss or any kind whatsoever resulting from procedures, testing, conclusions, recommendations, reports, or testimony in connection with the psychiatric/psychological child custody evaluation. The evaluator will be engaged in an arbitral function for the Judiciary and shall be entitled to and shall be deemed to possess and hold all common law and statutory privileges and indemnities available.

The evaluator is not responsible for the outcome of the legal proceedings.

Counsel may discuss and/or review the contents of the report with the parties, but they may not provide the parties with a photocopy or the original thereof for purposes of photocopying or otherwise retaining in their personal possession.

The evaluator's report shall be received in evidence without foundation or objection. The report shall be sealed and inspected by no one except counsel of record or any subsequent child custody evaluator without prior Order of the Court.

IT IS SO STIPULATED.

DATED: _____
Attorney for Petitioner

Telephone No.: _____

DATED: _____
Attorney for Respondent

Telephone No.: _____

DATED: _____
Petitioner

DATED: _____
Respondent

ORDER

IT IS SO ORDERED.

DATED: _____
JUDGE OF THE SUPERIOR COURT