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Psychic fallout from breach of confidentiality:

A patient/analyst's perspective

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I never expected to confront my analyst in a court of law. I thought we had a beneficial, profound, mutually respectful relationship. Yet, the unimaginable occurred. I filed a lawsuit against my analyst for breach of confidentiality, asserting that he had revealed privileged information about me to another patient, a woman with whom he had engaged in sexual misconduct. A few years after their relationship ended, that patient, whom I'll call Ann, could remember many personal things our analyst had said about me, and the list of her recollections became the evidence on which my lawsuit was based. After depositions and failed mediation, my analyst and I faced each other before judge and jury. The jury found him liable for negligence and for breach of fiduciary duty. They determined that his conduct was a substantial factor in causing me emotional harm.

At the end of the trial, my former analyst agreed not to file an appeal of the verdict against him. I agreed to a confidentiality clause that requires

me, in my published paper, to omit identifying information, including his name, office location, professional association, and the status of his license to practice.

Glen Gabbard has said, “If we are to prevent destructive enactments of boundary violations...we must enrich our understanding of the impact these violations have on our patients” (Gabbard, 1995, p.1134). Yet there are few accounts of the psychological impact of boundary violations on the patient. (One account is Yahav, R. & Oz, S. (2006). Perhaps this is because a therapist working with a patient who has experienced boundary violations in a previous treatment is understandably reluctant to publish a detailed case report. You don’t want to risk exposing the patient again and perhaps jeopardize the new therapeutic relationship. So I’m in a unique position as both the patient whose confidentiality was broken and as a psychoanalyst reflecting on the emotional damage that resulted from my analyst’s crossing of boundaries. My decision to share my personal experience comes with the hope of speaking for others whose stories can’t be told.

The literature on boundary violations has focused primarily on attempts to understand analysts who engage in sexual misconduct. (Celenza, 1991; Gabbard & Lester, 1995; Celenza & Gabbard, 2003; Celenza, 2006).

Papers also address organizational denial and ambivalence, as professional groups and training programs struggle to deal with members who commit boundary violations. ((Margolis, 1997; Gabbard & Peltz, 2001; Sandler & Godly, 2004). Recently, a few reports are coming out from analysts whose own analysts were censured for sexual misconduct, exploring the painful effects of being “collateral damage” (Wallace, 2007).

When breach of confidentiality is addressed in the literature, it has been described along a continuum from casual social conversations to actively gossiping about patients, but always with the assumption, as a given, that identifying information is withheld (Olinick, 1980; Caruth, 1985; Guthiel & Gabbard, 1993; Lander, 2003; Goldberg, 2004). Therefore, my experience of breach of confidentiality, which identified me by name and revealed details about my analysis, is both unusual and extreme in the literature. However, this kind of conduct may be under-reported. The expert witness who testified in court on my behalf told me it is “not unusual” for analysts who engage in sexual misconduct to break patient

confidentiality in that illicit relationship (personal communication).

I will now give a chronology of my unexpected adventure, interweaving events in the real world with experiences in my psychic world, including reflections, dreams, and dream-associations. I will focus on the emotional issues of traumatic de-idealization and dis-identification; the intensified collision of loving and hating feelings toward my analyst; my feelings mistrust and shame; disturbed professional identity; permeable psychic boundaries, and death anxiety.

The Discovery

I had been engaged in a helpful analysis for several years when I decided to apply to become a psychoanalyst. I was in my late forties and had been in private practice for fifteen years. My analysis continued during the five years of my analytic training from 1994-1999. Two years after I graduated, that is, in 2001, my analyst told me that he was taking a “forced sabbatical” from his responsibilities at his institute, which was not my institute, because he had a “legal problem.” I inquired, and he said he had been advised not to discuss it, adding softly, “You’ll never know.” I felt shut out but also tantalized by this declaration, and I asked a few colleagues if they’d heard anything about his “sabbatical” or his “legal problem.”

Within days, I heard that my analyst had engaged in an “ongoing sexual relationship with a patient.” (His assumption that I would never know was the first of many illusions I discovered he held about this experience.) I was terribly upset by the possibility of his sexual misconduct, but I didn’t know if the rumor was true. I then had a dream that *I was on vacation with a friend in a park on the edge of a huge ice floe in Alaska or Antarctica. We had a map, and there was a lot to see all over the park. We were at outdoor picnic tables, and at the next table was a psychoanalyst I recognized. He was old; he was alone. He was asleep with his head down on his arms, snoring. He woke up, looked around, and got up to see where he was. He said, “They have professional meetings at places like this.” Though confused at first about where he was, he decided he was at a professional meeting. Then he sat down and went back to sleep. He seemed ridiculous to me: he didn’t get it. He woke up and got ready to leave. He never did see me. When he walked away, I said to my friend, “Of all the places on earth, he ends up at a table next to me on a glacier.” And my friend replied, “Well, you two like to travel to the same places.”* I’m going to limit my discussion of my dreams to associations that are related to the disrupted relationship with my former analyst. Of course, I also had associations to other relationships and to my history.

This dream seems to reflect my complicated reaction on hearing the rumor of my analyst's sexual misconduct. The landscape in the dream is cold, as I was suddenly in a cold, unfamiliar place in my analysis. The nourishing environment is no longer inside in the containing enclosure of the consulting room but outside with no protective boundaries.

In the dream, I know the difference between work and play, but the analyst doesn't. He is old and ridiculous, confused and disoriented. In my dream, I have characterized him as demented, not exploitative—it's aggressive on my part, but it still offers a more benign explanation for his conduct: "He didn't get it" because he is confused rather than immoral. My mistrust in the authenticity of my analysis is expressed here too: had he slept through my analysis while he was sleeping with his patient? Did he ever see me?

The comment that we "travel to the same places" I take to be a reference to the analysis, a psychological journey that analyst and patient travel together. It also reflects my identification with him. There is no suggestion in the dream of his sexual interest in another; instead he seems asexual. But my erotized attachment comes through in the paraphrasing of Humphrey Bogart's line in *Casablanca*: —"of all the gin joints in all the world, she had to walk into mine."

This dream suggests that perhaps I already know unconsciously that I am going to leave my analysis and survive. I'm in unknown territory, but unlike my analyst, I am not lost. I have a map, and there is a lot to see. I will go forward on my journey without him.

Back to my chronology:

After hearing that I would “never know,” I felt a compelling need to seek out facts, so I asked a few people if they'd heard anything about my analyst's sabbatical or his legal problem. One colleague, who had not heard the rumor, speculated that if it were true, it could involve Ann, a psychotherapist I did not know. My colleague was a friend of Ann's and knew that Ann had seen my analyst. She recalled that Ann had mentioned an occasion when the analyst had significantly broken the analytic boundary in her treatment. And, my friend added, Ann was strikingly beautiful.

I confronted my analyst with my idea that he'd had a sexual relationship with Ann, whose involvement, at that point, was just conjecture on my part. He responded, “I guess it's a small town.” Confirmation. I was not left hanging in a state of not-knowing, but my faith in my analyst was abruptly shattered at that moment.

I ended my analysis that week. I was convinced that not only had his

behavior been unethical, but his thinking was impaired, and his acceptance of personal responsibility was lacking. He referred to his sexual misconduct as “a mistake” and claimed, “It happened a long time ago.” (Anything that happened during my analysis was not a long time ago to me!) He said, “What does my relationship with one patient have to do with my work with you?” I recognized a capacity for minimization, rationalization, and compartmentalization that could allow someone to be sexually involved with a patient while holding a position of authority in our field. At the same time, I was crushed that my analyst was blocking out my psychic reality. He urged me to stay in treatment to deal with my reactions, but I felt that I no longer had a psychoanalyst.

I was reassured that although he had transgressed with another patient, at least he had always been ethical with me. Nevertheless, I felt tainted. I was ashamed of choosing the wrong analyst, of being fooled, of having an unethical analyst as my model of a psychoanalyst, of having loved him and now of also hating him.

My faith in my own intuition—perhaps my most dearly held professional quality—was profoundly shaken. How could I not have known? My trust in psychoanalysis as a profession and in psychoanalysts as practitioners had also been severely damaged. Who are these people, really? I am one

of these people. Would I be capable, under extreme circumstances, of committing a serious ethical violation? If I were, would I be able to accept the gravity of my actions and the destructive consequences to myself and to others? Would I “get it?”

The complaint

I wondered if Ann had submitted a complaint against him with his professional licensing board. I searched online and discovered that indeed, a complaint had been registered. When the document arrived in the mail, I knew it had been filed by Ann, because the complainant was identified by her initials.

I did not want to believe the multiple allegations in the lengthy complaint. Among them was the assertion that my analyst had broken the confidentiality of many patients and talked frequently with her about intimate things patients had revealed in their analyses. This seemed impossible. I didn't believe my analyst could be cavalier about confidentiality.

But doubts plagued me. He had crossed one professional boundary; could he have broken another? If he had breached confidentiality, could he have talked to Ann about me? Assuming that the timeline put forth in the

complaint was accurate, the alleged year- and- a- half sexual involvement with Ann overlapped my early years as a psychoanalytic candidate. If Ann's allegations were true, I felt there would be a stigma on the analytic hours that were required for my training and on my entire analytic education.

Two months after reading the complaint against his license to practice, I contacted Ann to ask if my confidentiality had been breached. She was guarded and reluctant, but she confirmed that my confidentiality had been broken, and we agreed to meet in person.

Our conversation was awkward but polite. The previous evening, Ann had written a list of things she remembered our former analyst saying about me, using my name. Ann read aloud the thirteen items on her list. Each one was about me; there was no misinformation. Each item reflected something I'd said during my analysis or expressed my analyst's feelings about me. In some cases, I heard the very words I had spoken in my sessions. I was in shock. I muttered, "That's me." I couldn't believe it, but I knew it was true.

As the initial shock yielded to outrage, I decided to file a complaint with the state licensing board, and an investigator soon called to set up a meeting. The night before my appointment with the investigator, I had the

following dream:

I come home and several men with guns are ransacking my house; one is unplugging the computer. Another man shoots me several times, and as I fall, I say, "That's it; it's done." I expect to die. But there is not a lot of pain, and I don't die. Then the men are gone, and I can walk, even though my right leg has been reduced to pulp. I see that they did not take my computer. The protective window coverings that I had put on the windows were no help at all. There is a lion on the roof and large antelopes on the lawn. Anyone and anything can get in and out.

The act of filing the complaint, taking a public stand against my former analyst, stirred up intense paranoid anxieties. My internal world has been turned upside down, and the board investigation is going to rummage through my personal things. The invader is unplugging my computer, retaliation against the instrument I'd used to locate Ann's complaint and an attempt to disconnect my thinking capacities. "That's it, it's done"—by filing my complaint with the licensing board, I felt I had killed my intimate, loving relationship with my former analyst, and the dream reveals my anxiety and guilt over my aggressive action.

The partition between inside and outside, my skin ego (Anzieu, 1989), was permeable, so that my psychic contents were unprotected. The lion

and antelopes that may come and go are beautiful animals, though they have the potential to become enemies to each other and to me.

In this dream, there is primitive confusion of life and death. I am attacked so severely that I expect to die, though I don't die. Great damage has been done, but I don't feel pain. As in many of my dreams about this trauma, there is a part of me that is devastated and feels deadened, and at the same time, a part of me remains alive and is able to move forward.

The Lawsuit

Because the breach of confidentiality was so egregious, I considered filing a lawsuit, but I was very ambivalent. I wanted to take a stand against my analyst's breach of confidentiality, but I knew that a lawsuit would compound my exposure and humiliation. I consulted with family and close friends, and I met with the Chairman of the Ethics Committee at my institute. Thinking about my patients was the tipping point. Our psychoanalytic community is a small, complex matrix of relationships. I could not tolerate the possibility that any of my patients might somehow learn that my confidentiality had been breached and I had done nothing about it.

I filed the lawsuit about a year and a half after I left my analysis, asking my former analyst to compensate me for the emotional damage caused by

his negligence. His case was handled by an attorney representing his malpractice insurance company.

After filing the lawsuit, I felt isolated from institute colleagues, who had no idea about what I was going through. Outwardly, I maintained minimal involvement with my institute, but internally, my trust in myself, my analysis, and my field was broken.

The first depositions took place about two and a half years after I ended my analysis. I was allowed to be present at his deposition, but I was not allowed to speak. Although he looked the same, he no longer felt familiar, and he gave the impression of being relaxed and nonchalant, sitting with his legs stretched out under the conference table and his hands laced behind his head. While he acknowledged that he had talked to Ann about me a few times after she was no longer his patient, he justified these conversations as “informal consultation with a colleague” and insisted he had not used my name. He acknowledged no wrongdoing. I became confused: Could I be falsely accusing him, as he claimed? Was there some other explanation for how Ann could quote the words I had spoken in my analysis? What was real?

Because my former analyst refused to consider a settlement for something he maintained he hadn't done, the case went forward to trial. Another

woman, whom I'll call Mary, had also learned from Ann that her confidentiality had been broken, and we were co-plaintiffs using the same lawyer. We attended court together.

The Trial

Three years after I filed the lawsuit and four and a half years after I ended my analysis, the case came to trial before a jury. In his opening statement, my lawyer read Ann's list of the 13 items my analyst had said about me. Although I felt humiliated as my lawyer read each statement slowly and deliberately, I soon discovered an unanticipated benefit. I went to my office after the first day of testimony to sort through my mail, and when I entered my consulting room, I noticed a new feeling...my office suddenly felt clean, and the analytic couch seemed to fully belong to me. Having separated myself from my former analyst on the record, having taken myself out of his lineage in a public act, I began to reclaim my analytic identity.

The trial lasted two weeks. I testified for several hours, but I don't remember most of what I said. I answered my lawyer's questions succinctly while looking at the jury; some were listening and some were barely awake. As the trial developed, I felt more comfortable about my decision to file the lawsuit and more confident in the outcome. But I

continued to be dismayed by my former analyst's stance. His testimony contradicted Ann's testimony, and I believed Ann. I kept hoping that as the evidence against him was mounting, he would agree to settle, to put an end to the ordeal, but he did not. The jury deliberated for two days. They found him guilty of negligence and breach of fiduciary duty. They determined that his behavior was a substantial factor in causing me emotional harm. The jury awarded me financial damages. But, after deducting my lawyer's percentage and paying the expenses of mounting the trial, the amount did not equal the cost of my long-term analysis. This award was covered by malpractice insurance.

The lawyers interviewed some jurors after the trial. The jury's logic was not psychological logic. They determined that since some of my hours of analysis had occurred during my training and counted toward my becoming a psychoanalyst, the analyst had fulfilled part of his "contract" with me, so they did not grant the full amount I had paid for my analysis. They also didn't grant the amount I had requested for future psychoanalysis, because, as one juror said, "These people are in therapy all the time anyway."

Recovery

The guilty verdict reached by the jury felt like a confirmation of my

psychic reality of being betrayed and seriously harmed. In addition, once the trial was over, my ex-analyst stopped being part of my everyday life, and I no longer had to be affected by his behavior or keep confronting our clashing views of reality. Freed from the combative relationship of being opponents in a lawsuit, I was able to recapture my gratitude for the help I had received early in my analysis.

As time went on, I made progress regaining my faith in myself as an analyst, further separating myself from my ex-analyst. Six months after the trial, I dreamed:

I was at a psychoanalytic conference, and I came out of a large session and saw my former analyst sitting on a sofa in the corridor, outside of the session room.

In this dream, I am entitled to participate in the psychoanalytic world, while my ex-analyst is on the outside. Seeing him “outside of the session room” meant to me that he is now outside of my sessions, no longer infiltrating every minute of my analytic work. At the same time, there is a way that I still feel on the outside, unable to share the experience of the majority of analysts who have ended analysis feeling respect for their psychoanalyst.

Conclusion

In this talk, I have selected a few dreams representative of unconscious issues that demanded my attention as I careened from learning about my analyst's sexual exploitation of a patient, to knowing that he breached my confidentiality, to filing a lawsuit, to facing him before a jury that found him guilty. I believe that my dreams saved my psychic life. I mean this in both senses: the dreams preserved the pain that registered in my unconscious until a dream story could be created and remembered; and also, working with my dreams exercised my psychoanalytic capacities when my analytic identity was in greatest jeopardy. Through the dream work, I regained faith in my intuition, conscious and unconscious.

Breach of confidentiality is an exploitation of the patient's psyche, using analytic communication to satisfy personal needs of the analyst rather than to benefit the patient's psychic development. Even if the patient does not learn the details of the breach, as I did, the analyst who talks too freely about a patient breaks the protective perimeter of the analytic container, and the patient's analytic safety leaks through the cracks. Perhaps my experience will help clinicians understand the destructive consequences of this boundary violation on a patient's psychic life, so that we may practice caution at the beginning of the "slippery

slope”—in order to do no harm.

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