

Appendix A – Summary of Max’s Prior Statements

Max’s statements over time show that he has been largely, though not perfectly, consistent in his descriptions of what respondent knew and did. Her actions were not the subject of his June 28, 2018 KidsTalk forensic interview, and her name did not come up.¹ (Ex. 31) He returned to KidsTalk on August 15, 2018, when he understood he was there because “I need to talk about what my dad did to me.” (Ex. 32, p 12) At one point during this interview, he said he did not tell anyone besides the police about his father’s beatings. (*Id.* at p 24) Somewhat later in the same interview, he said respondent knew about them. A while later he explained: “She would be over there while he would be beating us . . . She did not see it, she heard it.” (*Id.* at p 41) A little after that he said respondent “knew what was happening because [he] told her,” and he knew she could hear what was happening because “I am screaming on the top of my lungs and she is in the other room.” (*Id.* at p 46)² He informed the interviewer that everything he told her was the truth and that no one told him what to say, and his mother told him to tell the truth. (*Id.* at p 50)³

In late 2018 or early 2019, CPS filed a petition in Juvenile Court to terminate Gary Davis-Headd’s parental rights. Russell, Max, and respondent testified at the trial in March 2019. Although the proceedings focused on the boys’ parents’ conduct, there was discussion about

¹ At that first interview, which was focused on the abuse, Max told the interviewer that his father choked Katy and Katy injured his eye and put makeup on the injury. (Ex. 31, p 4) He said he emailed his mother and told her about the beating. She called the police and CPS. (Ex. 31, p 15) He reported that he told his father he *called* his mother, even though he had really emailed her. (Ex. 31, p 16). He said he emailed his mother every time abuse happened, and she told him to tell the truth. (Ex. 31, pp 22, 23)

² The interviewer did not attempt to resolve why Max said at one point that he had only told the police, and at a later point said he had told respondent. A review of the interview suggests that the most likely answer is that he did not understand the first question to be referring to people within his family.

³ At this interview, Max was using the name “Ethan.” He also discussed seeing sexual activity between his father and Katy, and said Russell had told him their father touched Russell’s private parts and that Russell saw naked men with their father. He reported that a different person did sexual things to him. (Ex. 32, p 27)

respondent as well. Consistent with his prior statements, Max testified she knew about the abuse, that sometimes he told her, and on occasion she was present right before it happened. He testified, “Like, almost every time I saw her I told her. I told her about the time he choked her [Katy]. I told her about the times he beat us . . . I told her about most everything.” (Ex. 29, p 88)

Max further testified that one day Russell got in trouble. Respondent came over and Russell told her what was about to happen to him. Respondent left and their father did not beat Russell that day, but did beat him the next day. (*Id.* at pp 90, 91) Max said respondent “never helped us.” (*Id.* at p 104) He testified that respondent put makeup on his face the night before school, and that it was not always at night that she did so – clearly indicating that she put makeup on him multiple times. (*Id.* at pp 107, 109)

Respondent’s son’s criminal trial for abusing the boys took place in August, 2019. Max testified that Katy and respondent both put makeup on his injuries. (Ex. 35, p 91) He said that once when respondent put makeup on him at night, she gave the makeup to Katy to put on him the next day in case the makeup respondent put on him rubbed off. (*Id.* at p 112)⁴

Max was forensically interviewed for the first time about *respondent’s* conduct by disciplinary co-counsel, on September 9, 2019. This interview was recorded and transcribed. (Ex. 33, 34) He reported his father abused him and respondent put makeup on his bruises. (Ex. 34, pp 14, 15) He denied that she did so for an innocuous reason, such as Halloween or because he was in a school play. (*Id.* at pp 18-19, 23, 24) He said respondent saw his father hit him in the face but did nothing about it and did not protect him. (*Id.* at pp 15, 16). He reported that she would come over and the boys would tell her they were about to get beat, and then she left without protecting

⁴ Max also testified he began talking to his mom the last two days they were at their father’s house, and said he believed respondent was partially responsible for taking him away from his mom. (Ex. 35, pp 109, 114-115)

them. (*Id.* at p 16) In addition, on the way to respondent's home after choir practice, he told her about the abuse. (*Id.* at p 17, 18). One time she told him: "You have to stop getting slapped." (*Id.* at p 20) He described how respondent put makeup on him. She used a brush and he thinks she had a pallet. (*Id.* at p 19, 20) He said she put makeup on him more than four times. (*Id.* at p 24, 25) She gave Katy a bag in case she needed more makeup, and Katy put makeup on him in the morning. (*Id.* at pp 22, 23) At the end of the interview he said no one had told him what he should say or not say, and he had told disciplinary co-counsel the truth. (*Id.* at p 27)

On June 1, 2021, disciplinary co-counsel spoke with Max to determine whether respondent was assisting her son in violating a bond condition and whether she was tampering with a witness by communicating with Max. The interview focused only on those two topics. (Ex. 44) Max reported that he called respondent after his last KidsTalk interview, { which was on May 12, 2021. } (*Id.*, at 59:14-59:37) He said he was communicating with respondent and that she was helping him communicate with his father. (*Id.* at 1:00:34-1:00:46) Respondent told Max he cannot talk to his father because there is a bond condition that prohibits communication if they communicate, his father would go to prison. (*Id.* at 1:03:20-1:04:18) Max said he communicated with his father through respondent four or five times, the last time being in early April. (*Id.* at 1:04:20-1:04:48) On one occasion, Max asked respondent to record his newly deep voice and play the recording for his father, and she did so. His father responded to him through respondent. (*Id.* at 1:00:46-1:01:35) Max said respondent told him that he should write a letter to his father's criminal court judge asking to be allowed to communicate with his father. Over time, respondent's instruction changed and she instructed Max to send a letter to his father's friend, John. (*Id.*, at 1:05:15-1:06:43, 1:34:17-1:34:37) Max said respondent sent him a letter via snapchat and directed him to copy it in his own writing. (*Id.* at 1:11:43-1:12:10) The letter Max was told to copy falsely recanted some

of the allegations he made at the criminal trial and falsely blamed his mother for forcing him to make the child abuse allegations. (*Id.* at 1:12:10-12:21:00, 1:25:00-1:27:07) Max wrote the letter as directed, but changed the contents of the letter and omitted that his mother forced him to make the abuse allegations. He gave an elaborate explanation of how respondent instructed him to get the letter to John. (*Id.* at 1:35:00-1:36:08) Max reported that he left the letter on the back porch of his great-grandmother's home and, apparently, someone picked it up. (*Id.* at 1:12:21-1:12:40, 1:27:13-1:27:44)

On June 11, 2021, disciplinary co-counsel again spoke with Max in the basement of his home to prepare him for testifying in this hearing. (*Ex.* 45) He told her that on the day the boys were removed from their home and the police and CPS were present, he saw respondent in the driveway. The boys were told they were going to be placed with her. He said he did not want to go there because his father would have access to him. (*Ex.* 45, 11:09-12:00) He did not remember the other reasons he told the police he did not want to go to respondent's home, and said it was possible he told the officer that she knew about the abuse and did nothing about it. He said that whatever he told the officer was the truth (*Id.* at 11:35-12:25; 13:15-14:28)

During that interview, Max said respondent put makeup on him one night and handed Katy a black bag with the black makeup pallet in it. Katy then put makeup on him in the morning. (*Id.* at 30:09-31:00) He reported that he wiped off the makeup and that classmates saw the handprint the makeup had attempted to conceal. He said he did not want to wear makeup. He knows that respondent put makeup on his face more than once. He did not think her putting makeup on him was a big deal. (*Id.* at 31:22-32:25) Russell never teased him about the handprint on his face, and he never told respondent that Russell teased him. (*Id.* at 37:28- 37:42)

Max said he told respondent on several occasions that Russell was going to be beat. He remembered that she picked the boys up for a birthday party and he told her then. (*Id.* at 32:30-32:50) During this interview, he did not recall telling respondent about the abuse when she picked them up from choir practice. He said he had been truthful when he testified in Juvenile Court that he told respondent about the abuse every time he saw her. (*Id.* at 33:56-34:06)

Max recounted another incident that occurred at respondent's home, when his father smacked him while she was present in another room. He said he does not have a good memory of this event, but he remembers he was downstairs at her home and his father smacked him for supposedly lying. (*Id.* at 34:07-34:51) During this interview he said he did not know whether he or Russell showed respondent their injuries. (*Id.* at 34:56) He also did not recall telling respondent he was "spanked," although it is possible he did tell her. He recalled telling respondent he was afraid of his father. (*Id.* at 35:14) He reported that his father put plenty of marks on his face. (*Id.* at 36:22-36:40) He said respondent never questioned him about what his father did to him. (*Id.* at 37:10-37:14)

During this interview Max said he is not mad at respondent. He said he does not care about her; he just wishes "they" (referring to respondent and his father) did not lie. (*Id.* at 37:46-38:12)

After the interview concluded and Ms. Weingarden turned off the computer, Max provided her with additional information, which she later summarized on zoom and Max confirmed was accurate. (Ex. 45, 00:15-2:34). Max showed Ms. Weingarden the snapchat letter that he said respondent sent him. Ms. Weingarden contacted a police officer to discuss obtaining a search warrant for snapchat records. Max got nervous and admitted to Ms. Weingarden that it was not respondent, but rather his father, who directed him to write the letter to John. (1:00-1:17) Max explained that he didn't want his father to get in trouble and go to jail. (*Id.* at 1:30-1:43) Max told

Ms. Weingarden that after he attended KidsTalk, he called respondent and told her what he told KidsTalk about the letter—that she is the one who instructed him to write it. She did not ask any questions about the letter. Max said he asked respondent if he could say she is the one who sent the snapchat. Max reported that respondent said “yes” to his request. (Id. at 1:49-2:30, 6:40-7:00) He also reported that respondent helped him communicate with his father one or two times before he obtained his father’s contact information and was able to communicate with his father directly. (Id., at 10:37-10:57)

Max testified on three separate days of the hearing. The relevant parts of his testimony are as follows:

Respondent’s knowledge of her son’s abuse of Max and Russell

- Max testified Russell was about to get beat while respondent was in the home. Russell told her what was about to happen. Respondent asked their father not to do it and he did not beat Russell that day. (Max, 6-28-21, pp 472/24-25-474/1-10, 525/8-12, 629/8-14)
- Respondent saw the handprint on Max’s face. (Id. at p 474/19-24)
- Max told respondent he was being spanked by his father. (Id. at 525/8-12, Max, 8-23-21, p 1045/11-13)
- Max told respondent about the abuse a couple times while he was driving in the car with her (Max, 7-21-21, at pp 626/3-19, 628/13-15).
- Max remembers saying that he told respondent about the abuse every time he saw her, but then explained that it wasn’t every time. (Max, 7-21-21, pp 626/14-25, 627/1-5, 628/7-22, 630/9-13, 632/2-14)
- Max told respondent what was going on in their lives and of recent events like if they had recently been beaten or if they were going to get beaten. (Id at p 626/20-25, 627/1-5)
- Max told her “most everything,” (Id. at p 626/2-19) but then clarified that he did not tell her everything. (Id. at 628/7-22, 630/9-13.)
- Max remembers when respondent was putting makeup on him, she said he needed to stop getting slapped. (Id. at pp 651/22-25, 652/1-9)
- Max showed respondent other marks besides the slap marks (Max, 8-23-21, at p 1045/19-23)
- He had other marks on his face when he saw his GM, as his dad smacked him a lot and he had marks on his face pretty often. (Id. at p1069/1-25, 1070/1-2, Max 6-28-21, p 481/20-24)
- Max didn’t tell family members about the abuse. (Max, 8-23-21, p 1093/3-6)

- Max isn't saying respondent knew about the abuse because he's mad at her that he didn't see his mother for three years or because his father got custody of him. (Max, 7-21-21, 684/18-25, 685/1)

Respondent's use of makeup

- Respondent put makeup on the handprint in the upstairs bathroom. (Id. at p 478/8-9) The makeup was in a black case. Respondent was talking to Katy while she put the makeup on him. (Id. at p. 481/4)
- Max got to respondent's home because his father drove him there. (Id. at p 478/10-11)
- Max did not want respondent to put makeup on him. (Id. at p 481/10-11)
- Respondent put makeup on him more than once, maybe two or three times, and on his face only. (Id. at p. 481/12-19)
- Max thinks he made a mistake when he told disciplinary counsel on 9-9-19 that respondent put makeup on him more than four times. (Max, 7-21-21, p. 653/21-23)
- Max testified his father liked to slap him a lot and he had a lot of handprints on his face. Respondent covered a few with makeup. (Max, 6-28-21, p 481/22-24)
- Max testified on one occasion, respondent gave Katy a pallet of makeup to put on him. (Id. at p 470/5-10)
- Russell never teased him about having an injury on his face. Max testified that even if he did, he wouldn't want makeup on him and he wouldn't have asked for that. It was women's makeup. (Id. at p 486/11-20)
- Max testified he told his mom about the makeup; she didn't tell him. (Id. at pp 520/22-25, 521/1-2)
- Max testified he did not think the makeup issue was important. He didn't know it was bad. (Id. at p 521/2-10)
- Respondent never apologized for putting makeup on him. (Max, 7-21-21, p 592/8-10)
- Max was 9 when respondent put makeup on a handprint. (Id. at p 638/8-11)
- Max remembers that once when respondent was putting makeup on him, she said he needed to stop getting slapped. (Id. at p 652/1-9)
- Max denies the reason he has repeatedly said respondent put makeup on him is because he's mad at her. (Id. at p 683/20-25)
- Max denies the reason he has repeatedly said respondent put makeup on him is because he didn't see his mom for 3 years. (Id. at p 684/13-17)
- Max didn't tell family members that respondent put makeup on him. (Max, 8-23-21, p 1093/3-8)