

Before the
Administrative Hearing Commission
State of Missouri

01633



RECEIVED
JUN 16 2003
MO. OFFICE
TORYNE GENER

STATE COMMITTEE OF PSYCHOLOGISTS,)

Petitioner,)

vs.)

VINCENT STOCK,)

Respondent.)

No. 02-1828 PS

JUN 19 00

CONSENT ORDER

The licensing authority filed a complaint. Section 621.045, RSMo 2000, gives us jurisdiction.

On June 16, 2003, the parties filed a "Joint Motion for Consent Order, Joint Stipulation of Facts, Waiver of Hearings Before the Administrative Hearing Commission and State Committee of Psychologists and Disciplinary Order With Joint Proposed Findings of Fact and Conclusions of Law." Our review of the document shows that the parties have stipulated to certain facts and waived their right to a hearing before us. Because the parties have agreed to these facts, we incorporate them into this order and adopt them as stipulated. *Buckner v. Buckner*, 912 S.W. 2d 65, 70 (Mo. App., W.D. 1995). We conclude that the licensee is subject to discipline under § 337.035.2(5), (6), (13) and (15), RSMo 2000. We incorporate the parties' proposed findings of fact and conclusions of law into this Consent Order. We cancel the hearing scheduled for June 17, 2003, and certify the record to the licensing agency under § 621.110, RSMo 2000.

The only issue before this Commission is whether the stipulated conduct constitutes cause to discipline the license. The appropriate disciplinary action is not within our power to decide; that is subject to the licensing authority's decision or the parties' agreement. Section 621.110, RSMo 2000.

No statute authorizes us to determine whether the agency has complied with the provisions of section 621.045.3. RSMo 2000. We have no power to superintend agency compliance with statutory procedures. *Missouri Health Facilities Review Comm. v. Administrative Hearing Comm'n*, 700 S.W. 2d 445, 450 (Mo. banc 1985). Therefore, we do not determine whether the agency complied with such procedures.

SO ORDERED on June 16, 2003.

JULIE STRIEGEL DOUGHTY
Commissioner



State of Missouri

Bob Holden, Governor

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June 16, 2003

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TORNEY GENERAL

Ms. Pamela Groose
State Committee of Psychologists
P.O. Box 153
Jefferson City, Mo 65102

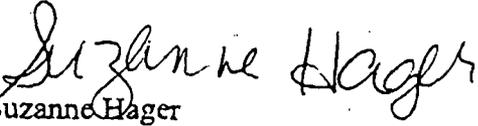
Re: State Committee of Psychologists, Petitioner vs. Vincent Stock, Respondent
No. 02-1828 PS

Dear Ms. Groose:

Pursuant to section 621.110, RSMo 2000, please find enclosed the record of proceedings in the above-named cause before the Administrative Hearing Commission.

For purposes of review, the action of this Commission and your order, if any, will be treated as one decision. (See section 621.145, RSMo.) Therefore, in the event of an appeal, these enclosures plus your order will need to be certified by you, pursuant to section 536.130, RSMo 2000, to the reviewing court.

Sincerely,


Suzanne Hager
Paralegal

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Enclosure

c: Ronald Q. Smith
Deborah J. Alessi

Before the
Administrative Hearing Commission
State of Missouri



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MO. OFFICE
ATTORNEY GENERAL

STATE COMMITTEE OF
PSYCHOLOGISTS,

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vs.

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Respondent.

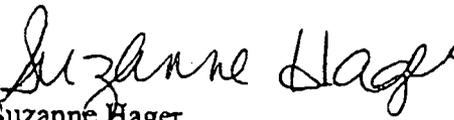
No. 02-1828 PS

CERTIFICATION

COMES NOW Suzanne Hager, Paralegal, Administrative Hearing Commission, and certifies to this Agency that the following list of items comprises the record of proceedings before the Administrative Hearing Commission in the above-named cause:

1. Copy of Complaint, filed December 2, 2002.
2. Copy of Answer, filed January 9, 2003.
3. Copy of Joint Motion for Consent Order, Joint Stipulation of Facts, Waiver of Hearings Before the Administrative Hearing Commission and State Committee of Psychologists and Disciplinary Order With Joint Proposed Findings of Fact and Conclusions of Law, filed June 16, 2003.
4. Copy of Consent Order, issued June 16, 2003.

Respectfully submitted,


Suzanne Hager
Paralegal

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED

JUN 16 2003

ADMINISTRATIVE HEARING
COMMISSION

STATE COMMITTEE OF PSYCHOLOGISTS,)
)
Petitioner,)
)
v.)
)
VINCENT STOCK,)
)
Respondent.)

No. 02-1828 PS

JOINT MOTION FOR CONSENT ORDER, JOINT STIPULATION OF
FACTS, WAIVER OF HEARINGS BEFORE THE ADMINISTRATIVE
HEARING COMMISSION AND STATE COMMITTEE OF
PSYCHOLOGISTS AND DISCIPLINARY ORDER WITH
JOINT PROPOSED FINDINGS OF FACT AND
CONCLUSIONS OF LAW

Pursuant to the rules governing practice and procedure before the Administrative Hearing Commission (1 CSR 15-3.440(3)) and pursuant to the terms of § 536.060, RSMo 2000, as it is made applicable to the Administrative Hearing Commission by § 621.135, RSMo 2000, Vincent Stock ("Respondent") and the State Committee of Psychologists ("Committee") hereby waive the right to a hearing of the above-styled case before the Administrative Hearing Commission and, additionally, the right to a disciplinary hearing before the Committee pursuant to § 621.110, RSMo, and jointly stipulate to the facts and consent to the imposition of disciplinary action against the psychologist license Respondent for violations of statutes and lawful rules and regulations set forth below.

Respondent acknowledges that he has received and reviewed a copy of the Complaint filed by the Committee in this case, and the parties submit to the jurisdiction of the Administrative Hearing Commission.

Respondent acknowledges that he is aware of the various rights and privileges afforded him by law, including the right to appear and be represented by counsel; the right to have a copy of the Complaint served upon him by the Administrative Hearing Commission prior to the entering of its order; the right to have all charges against Respondent proven upon the record by competent and substantial evidence; the right to cross-examine any witness appearing at the hearing against Respondent; the right to present evidence on Respondent's own behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the complaint pending against Respondent; and the right to a ruling on questions of law by an administrative hearing commissioner. Being aware of these rights provided the Respondent by operation of law, Respondent knowingly and voluntarily waives each and every one of these rights and freely enters into this Joint Motion for Consent Order, Joint Stipulation of Facts, Waiver of Hearings Before the Administrative Hearing Commission and State Committee of Psychologists, and Disciplinary Order with Joint Proposed Findings of Fact and Conclusions of Law ("Joint Stipulation") and agrees to abide by the terms of this document as they pertain to Respondent.

Based upon the foregoing, Petitioner and Respondent jointly stipulate to the following and request that the Administrative Hearing Commission adopt as its own the Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law as the Administrative Hearing Commission's Findings of Fact and Conclusions of Law:

JOINT PROPOSED FINDINGS OF FACT

1. Petitioner, the State Committee of Psychologists ("Committee"), is an agency of the state of Missouri created and established by § 337.050, RSMo 2000, for the purpose of administering and enforcing the provisions of Chapter 337, RSMo, relating to psychologists.
2. Respondent, Vincent Stock ("Stock"), is licensed by the Committee as a psychologist, license No. PY01633.
3. Stock's initial license to practice as a psychologist in Missouri was issued by the Committee on November 22, 1993.
4. Stock's license as a psychologist is current and active.
5. On or about December 13, 1999, Stock began psychological sessions with D.B., thereby establishing a psychologist/patient relationship with D.B.
6. Stock met with D.B. for 11 sessions between December 13, 1999, and July 7, 2000.

7. D.B. was approximately 16 years old at the time she was in treatment with Stock.

8. On or about July 7, 2000, during a psychological session with D.B., Stock touched the breast of D.B. on top of D.B.'s clothing.

9. During this session, Stock told D.B. he wished his wife's breasts were as nice as D.B.'s.

10. During this session, Stock told D.B. he wished his wife had breasts like D.B.

11. During this session, Stock sat down next to D.B. and told her he felt so comfortable with her that he could be naked with her.

12. D.B. did not return for further sessions with Stock.

13. Stock's conduct constituted a prohibited dual relationship.

14. Stock's conduct constituted deliberate sexual comments, gestures, and physical contact.

15. Stock's conduct exploited his professional relationship with D.B.

16. Stock's conduct constituted incompetency, misconduct, and/or gross negligence.

17. Stock's conduct violated D.B.'s professional trust and confidence in Stock.

18. Stock's conduct violated the ethical rules of conduct adopted by the Committee.

JOINT PROPOSED CONCLUSIONS OF LAW

19. 4 CSR 235-5.030(4)(C) states in relevant parts:

(C) Prohibited Dual Relationship.-

1. The psychologist, in interacting with any current client or with a person to whom the psychologist at any time within the previous sixty (60) months has rendered counseling, psychotherapeutic or other professional psychological services for the treatment or amelioration of emotional distress or behavioral inadequacy, shall not-

C. Touching or caressing by either the psychologist or client of the other person's breasts, genitals or buttocks;

D. Engage in any deliberate or repeated comments, gestures or physical contact of a sexual nature that exploits the professional relationship with the client;

20. Stock's conduct violated 4 CSR 235-5.030(4)(C)1.C.

21. Stock's conduct violated 4 CSR 235-5.030(4)(C)1.D.

22. Stock's conduct violated 4 CSR 235-5.030(4)(D) which states in relevant part: "Prohibited Exploitation in Professional Relationships. The psychologist shall not exploit, sexually or otherwise, his/her professional relationship with clients, supervisees, students, employees, research participants or others."

23. Stock's conduct violated 4 CSR 235-5.030(5) which states in relevant part: "(E) Sexual or Other Dual Relations With a Client. The psychologist shall not enter into a sexual or other dual relationship with a client, as specified in subsections (4)(B) and (C) of these ethical rules of conduct."

24. Cause exists for the Committee to take disciplinary action against Stock's

license pursuant to § 337.035, RSMo, 2000, which states in relevant parts:

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

.....

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

.....

(13) Violation of any professional trust or confidence;

.....

(15) Being guilty of unethical conduct as defined in "Ethical Rules of Conduct" as adopted by the committee and filed with the secretary of state.

II

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Committee in this matter under the authority of § 621.110, RSMo 2000. This disciplinary order will be effective immediately upon the issuance of the Consent Order of the Administrative Hearing Commission without further action by either party:

1. Respondent's psychologist license, No. PY01633, is hereby placed on SUSPENSION for a period of one year to be followed by a period of PROBATION for five years. The period of suspension and probation shall constitute the disciplinary period. Imposition of the suspension shall be stayed and the period of probation shall begin on the effective date of this order. During the disciplinary period, Respondent shall adhere to the following terms and conditions:

I. REQUIREMENTS REGARDING TREATMENT FOR SEXUAL MISCONDUCT

A. At Respondent's expense, Respondent shall continue treatment under Dr. Roger L. Gennari throughout the disciplinary period, subject to the terms and conditions herein.

B. Respondent shall abide by the recommendations of Dr. Gennari and Dr. David B. Clark, and any other psychologists involved in the treatment or evaluation of Respondent pursuant to this order. Respondent shall engage in all

psychological testing, evaluation, supervision, therapy or other treatment recommended.

C. Respondent shall attend sessions according to the frequency recommended by evaluating psychologist. The treatment modality or plan shall reflect issues and themes recommended by the evaluating psychologist as well as any additional treatment goals. Ongoing treatment and documentation shall address the evaluating psychologist's recommendations.

D. In the event the treating psychologist becomes unable or decides not to continue serving in his/her capacity as a treating psychologist or otherwise ceases to serve as a treating psychologist during the disciplinary period, then the Respondent shall:

(1) within three business days of being notified of the treating psychologist's inability or decision not to continue serving as the treating psychologist, or otherwise learning of the need to secure a treating psychologist, advise the Committee in writing that he is needing to secure a treating psychologist and the reasons for such change; and

(2) within 20 business days of being notified of the treating psychologist's inability or decision not to continue serving as the treating psychologist, or otherwise learning of the need to secure a treating

psychologist, secure a treating psychologist pursuant to and in accordance with the terms and conditions set forth in this agreement.

E. Respondent shall submit a list of no less than five proposed psychologists to provide Respondent's treatment. The Committee may approve a psychologist from this list, or may require a second list of five psychologists which the Respondent shall submit within 20 business days of the Committee's request. The Respondent must begin treatment within 30 days of the Committee's approval. Respondent must immediately notify the Committee, in writing, of the start date of the evaluation.

F. Respondent must give the State Committee of Psychologists or its representative permission to review Respondent's treatment and/or medical records.

G. Respondent's therapist must report every three months to the State Committee of Psychologists on Respondent's progress. Reports must be received before March 1, June 1, September 1, and December 1 of each year. It is Respondent's responsibility to ensure that these reports are provided in a timely manner.

H. The scope and nature of Respondent's practice as a professional psychologist will be under review of the State Committee of Psychologists. Respondent may not work in settings that increase Respondent's risk for sexual

misconduct. Respondent's work setting must be approved by the State Committee of Psychologists.

III. REQUIREMENTS REGARDING RESPONDENT'S PRACTICE, SUPERVISION AND TREATMENT

A. During the disciplinary period, Respondent shall not provide individual or group psychological services to females below the age of 18 years. Psychological services include, but are not limited to, counseling, psychotherapy, testing, evaluation, and/or consultation. However, Respondent may provide family therapy to families that include females under the age of 18 years, as long as at least one family member 18 years of age or older is present at all times during the family therapy.

B. Respondent's practice as a professional psychologist shall be supervised throughout the disciplinary period on a monthly basis by a psychologist approved by the State Committee of Psychologists. Within 20 business days of the effective date of this order, Respondent shall submit a list of no less than five proposed psychologists to supervise Respondent's practice as a professional psychologist. The Committee may approve a psychologist from this list or may require a second list of five psychologists which Respondent shall submit within 20 business days of the Committee's request. Supervision includes, but is not limited to, monthly on-site face-to-face review of cases and/or review (approval and co-signing) of written reports such as case notes, intake assessments, test reports, treatment plans, and progress reports. If Respondent has failed to secure a supervisor within 20 business

days from the start of probation, Respondent shall cease practicing psychology until a supervisor is secured. Respondent shall be responsible for any payment associated with the supervision.

C. In the event the supervising psychologist becomes unable or decides not to continue serving in his/her capacity as a supervising psychologist or otherwise ceases to serve as a supervising psychologist during the period of probation, then the Respondent shall:

(1) within three business days of being notified of the supervising psychologist's inability or decision not to continue serving as the supervising psychologist, or otherwise learning of the need to secure a supervising psychologist, advise the State Committee of Psychologists in writing that he is needing to secure a supervising psychologist and the reasons for such change; and

(2) within 20 business days of being notified of the supervising psychologist's inability or decision not to continue serving as the supervising psychologist, or otherwise learning of the need to secure a supervising psychologist, secure a supervising psychologist pursuant to and in accordance with the terms and conditions set forth in this Joint Stipulation. After 20 business days, the Respondent shall not practice if he or she has not secured a supervisor.

D. The supervising psychologist shall be vested with administrative authority over all matters affecting the provision of psychological health services provided by Respondent so that the ultimate responsibility for the welfare of every client is maintained by the supervising psychologist.

E. Respondent must give the State Committee of Psychologists or its representatives permission to review Respondent's personal treatment or medical records.

F. Respondent's supervisor must report at least once every three months on Respondent's compliance with this agreement. Reports must be received before March 1, June 1, September 1, and December 1 of each year. It is Respondent's responsibility to ensure that these reports are provided in a timely manner.

IV. GENERAL REQUIREMENTS

A. Respondent may not serve as a supervisor for any psychological trainee, psychological intern, psychological resident, psychological assistant, or any person undergoing supervision during the course of obtaining licensure as a psychologist, professional counselor, or social worker.

B. Respondent must keep the State Committee of Psychologists apprised at all times, in writing, of Respondent's current home and work addresses and telephone numbers.

C. Respondent is required to pay to the State Committee of Psychologists, in a timely fashion, all requisite fees required by law to renew and keep current Respondent's psychology license in Missouri.

D. Respondent is required to comply with all provisions of Chapter 337, RSMo; the rules and regulations duly promulgated by the State Committee of Psychologists; and state and federal criminal laws.

E. Respondent must provide periodic reports of Respondent's compliance with this agreement every three months. Reports must be received before March 1, June 1, September 1, and December 1 of each year.

F. At Respondent's expense, Respondent must agree to meet with the State Committee of Psychologists at reasonable intervals designated by the Committee.

2. The parties to this Joint Stipulation understand that the State Committee of Psychologists will maintain this Joint Stipulation as an open and public record of the Committee as provided in Chapters 337, 610, and 620, RSMo.

3. Failure to comply with any of the terms of this Joint Stipulation shall be deemed a violation of the Joint Stipulation and shall be cause for further discipline.

4. Upon the determination of the Committee that the Respondent has failed to comply with the terms of this Joint Stipulation, the Committee may revoke Respondent's license or may take such other or additional disciplinary action against Respondent or Respondent's license as the Committee deems appropriate. No order shall be entered by the

State Committee of Psychologists pursuant to this paragraph of this consent order without notice and an opportunity for hearing before the State Committee of Psychologists in accordance with the provisions of Chapter 536, RSMo.

5. Upon the expiration and successful completion of the period of suspension followed by probation, Respondent's license as a psychologist in Missouri shall be fully restored if all other requirements of law have been satisfied.

6. If the State Committee of Psychologists determines that the Respondent has violated a term or condition of this Joint Stipulation, which violation would also be actionable in a proceeding before the Administrative Hearing Commission or the circuit court, the State Committee of Psychologists may elect to pursue any lawful remedies or procedures afforded it and is not bound by this stipulation in its determination of appropriate legal actions concerning that violation. If any alleged violation of this Joint Stipulation occurred during the disciplinary period, the Committee may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held to determine whether a violation occurred and, if so, it may impose further discipline. The Committee retains jurisdiction to hold a hearing to determine if a violation of this Joint Stipulation has occurred.

7. The terms of this Joint Stipulation are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this Joint Stipulation nor any of its provisions may be changed, waived, discharged, or terminated,

except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

8. Respondent hereby waives and releases the Committee, its members and any of its employees, agents, or attorneys, including any former committee members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including, but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this litigation, or from the negotiation or execution of this Joint Stipulation. The parties acknowledge that this paragraph is severable from the remaining portions of this Joint Stipulation in that it survives in perpetuity even in the event that any court of law deems this Joint Stipulation or any portion thereof void or unenforceable.

In consideration of the foregoing, the parties consent to the entry of record and approval of this Joint Motion for Consent Order, Joint Stipulation of Facts, Waiver of Hearings Before the Administrative Hearing Commission and State Committee of Psychologists, and Disciplinary Order and to the termination of any further proceedings before the Administrative Hearing Commission based upon the Complaint filed by Petitioner in the above-styled action.

RESPONDENT

PETITIONER

Vincent F. Stock

Pamela Groose

Vincent Stock

Pamela Groose
Executive Director
State Committee of Psychologists

Date 6/16/03

Date 6/16/03

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