

**SETTLEMENT AGREEMENT BETWEEN THE STATE COMMITTEE OF
PSYCHOLOGISTS,
STATE OF MISSOURI AND MARK SCHWARTZ, Ph.D.**

Come now Mark Schwartz, Ph.D. ("Licensee") and the State Committee of Psychologists, State of Missouri ("Committee") and enter into this settlement agreement for the purpose of resolving the question of whether Licensee's license as a psychologist will be subject to discipline.

Pursuant to the terms of § 536.060, RSMo 1 the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri ("AHC") regarding cause to discipline the Licensee's license, and, additionally, the right to a disciplinary hearing before the Committee under § 621.110, RSMo.

Licensee acknowledges that he understands the various rights and privileges afforded him by law, including the right to a hearing of the charges against him; the right to appear and be represented by legal counsel; the right to have all charges against him proven upon the record by a preponderance of the evidence; the right to cross-examine any witnesses appearing at the hearing against him; the right to present evidence on his own behalf at the hearing; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against him and, subsequently, the right to a disciplinary hearing before the Committee at which time he may present evidence in mitigation of discipline; and the right to recover attorney's fees incurred in defending this action against his license. Being aware of these rights provided him by operation of law, Licensee knowingly and voluntarily waives each and every one of these rights and freely enters into this settlement agreement and agrees to abide by the terms of this document, as they pertain to him.

For the purpose of settling this dispute, Licensee neither admits or denies any of the (final) allegations made against him, but agrees that if such allegations have met the standard of proof utilized by administrative courts of competent jurisdiction such proof would reflect proper grounds for licensing board discipline.

All statutory references are to Missouri Revised Statutes 2000, as amended, unless otherwise indicated.

Joint Stipulation of Facts and Conclusions of Law

1. The State Committee of Psychologists ("Committee") is an agency of the State of Missouri created and established pursuant to § 337.050, RSMo, for the purpose of executing and enforcing the provisions of Sections 337.010 through 337.345, RSMo.
2. Licensee Mark Schwartz, Ph.D. is licensed by the Committee as a psychologist License No. 01565. Licensee's Missouri license was at all times relevant herein, and is now, current and active.

3. On or about August 21, 2013, the Committee received a complaint from B. K. regarding psychological services she received from Dr. Robert W. Bond. At the time of B.K.'s treatment, Dr. Bond held a provisional psychologist license and was under the supervision of Licensee. B.K. alleged in her complaint that her treatment with Bond "became solely focused on [their] relationship" and that Bond told her he loved her. B.K. alleged she felt forced to tell him that she loved him which "was uncomfortable and made her body cringe and [she] felt guilty, disgusting and confused." She alleged he wanted to hear about her sexual life, made comments about her body and stared at her body. She stated they exchanged numerous emails of a personal nature. As a result of B.K.'s complaint, the Committee initiated an investigation into Dr. Bond. Subsequently, the Committee initiated an investigation into Licensee related to his supervision of Dr. Bond. B.K. did not tell Licensee about the emails with Bond even though she worked with Licensee in group therapy daily.

4. As part of the Committee's investigation, the Committee spoke with the complainant, her father, Dr. Bond and Nancy Albus, the facility's chief operating officer. Dr. Bond denied breaking any boundaries with B.K. and stated he is married and dedicated to his wife. He admitted that replying to all of B.K.'s emails was "not a good decision." CEO Albus stated that Licensee was Dr. Bond's supervisor at the facility and was during B.K.'s treatment. Dr. Bond was placed on probation with the facility.

5. Upon learning of B.K.'s complaint, Jim Gerber Ph.D. Nancy Albus, MFT and Licensee supervised Bond weekly. Schwartz saw Bond weekly in face to face supervision and discussed each of his cases throughout a two year period. Licensee also saw Bond daily for a two year period in group supervision and 3 hours a week in treatment team meeting.

6. Dr. Bond also provided a written response to B.K.'s complaint denying her allegations.

7. Upon investigation, the Committee learned that on September 10, 2012, B.K. sent an email to Licensee requesting Dr. Bond as her primary therapist.

8. Upon receipt of B.K.'s written request, Licensee met with the facility's executive team and the team determined Dr. Bond could serve as B.K.'s primary therapist.

9. Dr. Bond met with the Committee on March 13, 2014. Dr. Bond stated that if he could do things differently, he would "utilize supervision significantly differently than what I did." He stated that in supervision meetings, because he had so many clients, he would "give general impressions rather than always get into specifics." Dr. Bond stated he met weekly with Licensee but there was not a record of those meetings. Licensee testified he wrote notes at the close of each supervision session and provided the notes to the committee, signed and dated. Dr. Bond stated he did not sign anything documenting the number of hours of supervision he received from Licensee and they met each week. He stated he kept track on his calendar but neither he nor Licensee signed anything. Dr. Bond stated he did not consider emails as notes documenting an interaction with a patient and so those were not in the patient file. Dr. Bond also acknowledged that his patient records were not complete in all sections. Dr. Bond also stated that he did not

know he had to document group supervision in his notes or that he met with Licensee in group supervision. Dr. Bond stated that Licensee "told him" he co-signed notes but he only assumed that it happened. However, Dr. Bond acknowledged that in reviewing the case notes, his was the only signature on them. The records were electronic and there was no area on them that allowed for cosignature. As such, Licensee printed a hard copy and signed them, witnessed by Samantha Young, Custodian of Records. However, the signed hard copy cannot be located by the facility.

10. Following Dr. Bond's meeting with the Committee, Dr. Bond provided additional information to the Committee. Dr. Bond stated that the supervision plan submitted to the Committee was the only written document regarding supervision that he was aware of. He stated that other than copies of his calendar regarding supervision with Licensee, there were no other documents related to Licensee's supervision of Dr. Bond's work within Dr. Bond's possession. Dr. Bond and Licensee testified before the Committee that Dr. Bond was supervised weekly one-on-one by Licensee for more than two years.

11. As a result of the complaint against Dr. Bond, on February 28, 2013, the Committee sent Licensee a letter requesting to speak with him about his supervision of Licensee at the Committee's March 13, 2014 meeting. The Committee agreed to continue the appointment to its June 5, 2104 meeting.

12. On June 5, 2014 Licensee produced to the Committee his supervision notes for Dr. Bond.

13. On June 5, 2014, Licensee appeared before the Committee. Licensee stated that he did not recollect, but "guessed" that at the time he supervised Dr. Bond, he was supervising two therapists. Licensee stated that his supervision notes for Dr. Bond were not in the patient record for B.K., or any other patient. The notes could not be cosigned electronically so hard copies had to be cosigned and kept in file. He stated he had "never done that and he kept his own supervision notes." Licensee stated he did not increase supervision meetings with Dr. Bond following the facility placing Dr. Bond on probation as a result of the treatment of B.K. Licensee stated he was unaware of the emails between Dr. Bond and B.K. until after B.K. filed her Complaint. Licensee stated Dr. Bond never told him during their supervision meetings that he was emailing with B.K. He stated his training as a supervisor came mostly from years of supervising staff in various program setting and reading two or three books on the supervisor's role. He stated he never had specific training. He stated he was not told that Dr. Bond had taken and failed the EPPP examination, a requirements for licensure. Licensee stated he did review and sign Dr. Bond's notes. Licensee stated he made no additional notes to Dr. Bond's patient records. He stated that he never had any concerns about B.K.'s treatment by Dr. Bond.

14. Regulation 20 CSR 2235-2.040(1) states, in relevant part: (D) Clinical Supervision. The psychological activities of the applicant shall be performed pursuant to the primary supervisor's order, control, and full professional responsibility. The primary supervisor shall maintain a continuing relationship with the applicant and shall meet with the applicant a minimum of one

(1)hour per month in face-to-face individual supervision. Clinical supervision may be delegated by the primary supervisor to one or more secondary supervisor(s) who shall then retain order, control and full professional responsibility for the applicant's clinical work under their supervision and who shall then meet with the applicant a minimum of one (1) hour per week in face-to face individual supervision. If the primary supervisor is also the clinical supervisor, the face-to-face meetings shall be a minimum of one (1) hour per week. Group supervision is not acceptable for supervised experience under this regulation.

(E) Supervisor Requirements. (6) Must certify to the committee at the completion of the applicant's postdoctoral supervised professional experience that the supervisee has complied with the requirements for supervised professional experience through the use of the attestation forms.

(F) Supervisor/Supervisee Relationship. 1. All professional activities and psychological services provided by the supervisee must be performed pursuant to the supervisor's order, control and full professional responsibility. The supervisor, whether primary and/or secondary must be vested with administrative authority over matters affecting the provision of psychological health services which are being accorded under the supervision of the particular supervisor, whether primary and/or secondary, so that the ultimate welfare of every client is maintained by the supervising psychologist(s).

15. The supervisor(s) shall maintain a continuing relationship with the supervisee by their employment, affiliation in the same setting, or both. The supervisor(s) and supervisee should have frequent professional interactions.

16. Unless otherwise approved by the committee for good cause, all written documents, such as case notes, intake assessments, test reports, treatment plans and progress reports prepared by the supervisee during the period of the supervised professional experience must be reviewed, approved and co-signed by the appropriate supervisor.

17. Regulation 20 CSR 2235-5.030 states, in relevant part:

(4) Maintenance and Retention of Records.

(B) To meet the requirements of these rules, but not necessarily for other legal purposes, the psychologist shall assure that all data entries in the professional records are maintained for a period of not fewer than five (5) years after the last date of service rendered, or not less than the time required by other regulations, if that is longer.

2. For each person professionally supervised, the psychologist shall maintain for a period of not less than five (5) years after the last date of supervision, a record of the supervisory session that shall include the type, place, and general content of the session as well as other information required by these rules, other law or good practice.

18. Licensee's conduct as described in paragraphs 3 through 9 above constitutes cause to discipline Licensee's license pursuant to §337.035.2(5), (6), (13) and (15), RSMo, in that Licensee failed to maintain adequate records related to his supervision of Dr. Robert Bond and failed to provide Dr. Bond adequate supervision.

19. Cause exists for the Committee to take disciplinary action against Licensee's license under § 337.035, RSMo, which states in pertinent part:

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, assisting, or enabling any person to violate, any provision of this chapter, or any lawful rule or regulation adopted pursuant to this chapter; Violation of any professional trust or confidence; Being guilty of unethical conduct as defined in "Ethical Rules of Conduct" as adopted by the committee and filed with the secretary of state.

Joint Agreed Disciplinary Order

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 § 536.060, RSMo, and §§ 621.045.4 and 621.110, RSMo.

1. Schwartz's license to practice psychology, License No. 01565, is hereby **CENSURED**. The censure shall be reportable discipline.

2. Licensee has moved to California and had no intention to continue practicing psychology in the State of Missouri, and therefore, agrees that he will immediately cease practicing psychology in the State of Missouri, that he will allow his license to expire on January 31, 2018, and that he will not renew his current license or apply for a license to practice psychology in the State of Missouri after his current license expires. If at any time between the effective date of this Settlement Agreement and the date Schwartz's license expires on January 31, 2018, Schwartz returns to Missouri and practices psychology in the State of Missouri, the Committee may reopen this matter and may pursue further disciplinary action against Schwartz based on the facts and conduct set forth in this document. If at any time after Schwartz's license expires, Schwartz returns to Missouri and applies for licensure to practice psychology in Missouri, the Committee may deny Schwartz a license to practice or may issue a license subject to disciplinary terms based on the facts and conduct set forth in this document. Further, Schwartz agrees that if he violates any provision of this Settlement Agreement the violation shall serve as an independent basis for which the Committee may pursue disciplinary action against Schwartz.

3. This Settlement Agreement does not bind the Committee or restrict the remedies available to it concerning any future violations by Schwartz of Chapter 337, RSMo, as amended, or the regulations promulgated thereunder, or of the terms and conditions of this Settlement Agreement.

4. Each party agrees to pay all their own fees and expenses incurred as a result of this case, its litigation, and/or its settlement.

5. The terms of this Settlement Agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this Settlement Agreement 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.

6. The parties to this Settlement Agreement understand that the Committee will maintain this Settlement Agreement as an open record of the Committee as required by Chapters 324, Chapter 337, and 610, RSMo, as amended.

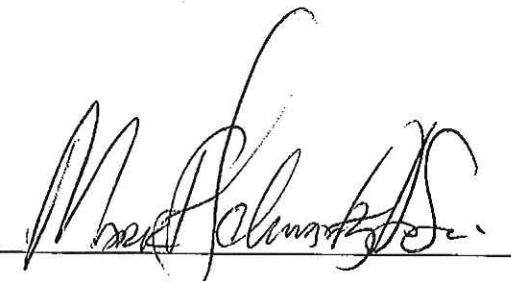
7. Schwartz, together with his partners, heirs, assigns, agents, employees, representatives and attorneys, does hereby waive, release, acquit and forever discharge the Committee, its respective members, employees, agents and attorneys including former members, employees, agents and attorneys, of, or from any liability, claim, actions, causes of action, fees, costs, expenses and compensation, including, but not limited to, any claim for attorney's fees and expenses, whether or not now known or contemplated, including, but not limited to, any claims pursuant to § 536.087, RSMo, as amended, or any claim arising under 42 U.S.C. § 1983, which now or in the future may be based upon, arise out of, or relate to any of the matters raised in this case or its litigation or from the negotiation or execution of this Settlement Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of the Settlement Agreement in that it survives in perpetuity even in the event that any court or administrative tribunal deems this agreement or any portion thereof void or unenforceable.

8. This Settlement Agreement goes into effect on the date the document is signed by the Executive Director of the Committee.

LICENSEE

STATE COMMITTEE

OF PSYCHOLOGISTS



Mark Schwartz

Date:

April 15, 2017



Pamela Groose, Executive Director

Date:

April 19, 2017

Effective Date:

4-19-2017

