

**COMMONWEALTH OF KENTUCKY  
BOARD OF EXAMINERS OF PSYCHOLOGY  
AGENCY CASE NO. 14-133  
ADMINISTRATIVE ACTION NO. 16-KBEP-0098**

**COMMONWEALTH OF KENTUCKY,  
BOARD OF EXAMINERS OF PSYCHOLOGY**

**COMPLAINANT**

**V.**

**HUBERT POLLETT  
(LICENSED PSYCHOLOGICAL ASSOCIATE NO. 0034)**

**RESPONDENT**

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**SETTLEMENT AGREEMENT, RELEASE, AND FINAL ORDER**

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This Settlement Agreement (the "Agreement") is made, by and among the Kentucky Board of Examiners of Psychology (the "Board") and Hubert Pollett ("Respondent").

**Witnesseth**

**Whereas**, the Respondent is a licensed Psychological Associate in the Commonwealth of Kentucky, having been issued License No. 0034; and

**Whereas**, pursuant to KRS Chapter 319.082, the Board is authorized to take disciplinary action against any license or certificate holder; and

**Whereas**, during the period in question, the Respondent was a licensed psychological associate; and

**Whereas**, the Respondent owns and operates a DUI Assessment practice in Shelbyville, Kentucky; and

**Whereas**, during the period in question, the Respondent performed certain functions within the practice of psychology without being under the supervision of a licensed psychologist approved by the Board; and

**Whereas**, the Respondent provided DUI assessments using a Psychosocial Evaluation Form, the Alcohol Use Disorders Identification Test (“AUDIT”), and the Disabilities of the Arm, Shoulder, and Hand (“DASH”) questionnaire; and

**Whereas**, the AUDIT is a ten-question test developed by a World Health Organization sponsored collaborative project to determine if a person may be at risk for alcohol abuse problems; and

**Whereas**, the AUDIT screening tool is a reliable and valid measure in identifying alcohol abuse problem behaviors; and

**Whereas**, the DASH questionnaire is a global scale evaluating the impact of upper-extremity disorders; and

**Whereas**, performing a DUI assessment using a Psychosocial Evaluation Form, the Alcohol Use Disorders Identification Test (“AUDIT”), and the Disabilities of the Arm, Shoulder, and Hand (“DASH”) questionnaire constitutes the practice of psychology; and

**Whereas**, the Respondent engaged in the practice of psychology without a supervisor approved by the Board; and

**Whereas**, from August 15, 2013 through December 31, 2013, the Board conducted an amnesty program to allow all psychological associates and supervisors in an independent contractor relationship to cure the violation of 201 KAR 26:250 and allow the psychological associate to become an employee of the supervisor’s practice; and

**Whereas**, the Board provided any psychological associate and supervisor who were in violation of 201 KAR 26:250 the opportunity to demonstrate compliance by submitting a W-2 or W-4 Form for the psychological associate or special application to work as an independent contractor; and

**Whereas**, the Board ordered all psychological associates and supervisors by correspondence dated August 15, 2013, and October 29, 2013, to comply with 201 KAR 26:250; and

**Whereas**, the Board's Order informed all psychological associates and supervisors of a potential violation of 201 KAR 26:250 and directed them to cure this violation. All psychological associates and supervisors were warned that failure to cure the violation may also constitute a violation of KRS 319.082(1)(h); and

**Whereas**, despite the written Order and opportunity to cure the violation of 201 KAR 26:250, the Respondent failed to comply with the Order of the Board. He did not submit a special application; and

**Whereas**, the Respondent never complied with the Board's Orders of August 15, 2013, and October 29, 2013; and

**Whereas**, the Respondent's license expired on May 9, 2016, and was canceled pursuant to KRS 319.071 on August 7, 2016; and

**Whereas**, the Respondent has not engaged in the practice of psychology during the pendency of this matter; and

**Whereas**, the Parties mutually desire to settle the issues in an expeditious manner, without the need for a formal hearing; and

**Whereas**, the Respondent has had the opportunity at all times to seek advice from competent counsel of choice, and no coercion has been exerted upon the Respondent, nor have any promises been made other than those reflected in this Settlement Agreement; and

**Whereas**, the Respondent freely and voluntarily enters into this Settlement Agreement, motivated by a desire to resolve the issues addressed herein, and the Respondent has executed

this Settlement Agreement only after a careful reading of it and a full understanding of all of its terms.

**Costs**

The Parties shall bear their own litigation expenses.

**Terms of Agreement**

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements set forth below, the adequacy and sufficiency of which are hereby acknowledged, the Parties hereby covenant and agree as follows:

1. By entering into this Agreement, the Respondent recognizes that if this matter was to go to an administrative hearing, the Board may have sufficient evidence to sustain a disciplinary action against him. Nevertheless, he desires to settle the matter in an expeditious manner without resorting to a disciplinary hearing, and in doing so, he does not admit to, and expressly denies, any wrongdoing or liability.

2. The Respondent agrees to not attempt to renew or reinstate his license for a period of three years from the execution date of this Settlement Agreement, and accept a Private Admonishment to be issued by the Board to resolve the matter of Agency Case No. 14-133, Administrative Action No. 16-KBEP-0098.

3. The Board agrees to issue a Private Admonishment and not seek any additional disciplinary action against the Respondent based on the factual allegations enumerated in the Notice of Administrative Hearing and Administrative Complaint issued in the matter of Agency Case No. 14-128B, Administrative Action No. 16-KBEP-0098.

4. The Parties agree to execute all documents necessary to settle and dismiss Board Agency Case No. 14-133, Administrative Action No. 16-KBEP-0098.

5. The Respondent expressly understands failure to comply with and complete all terms of this Settlement Agreement shall constitute failure to comply with an Order of the Board under KRS 335.540(1)(f) for which the Board may impose additional penalties available under law after notice and opportunity to be heard.

6. The Parties agree to take all actions necessary that would cause the conditions and obligations under this Agreement to become effective upon the date of this Agreement, or, in the event that additional documents may need to be executed after the date of this Agreement, the Parties agree to cooperate with each other and execute such additional documents to effectuate the purposes as stated herein.

7. Each of the Parties represents and warrants to the other that they have taken all requisite action to authorize the execution, delivery and performance of its obligations hereunder, and that each Party has all requisite power and authority to enter into this Agreement and to effectuate the purposes herein and that the Agreement will in fact be legally binding and will constitute the valid and legally binding obligation of each Party and will be enforceable against each Party in accordance with the respective terms hereof.

8. This Agreement shall be governed in all respects, whether as to validity, construction, capacity, performance or otherwise, in accordance with the laws of the Commonwealth of Kentucky without reference to its choice of law rules. Any dispute arising hereunder shall be settled by a state court of appropriate jurisdiction in Franklin County, Kentucky. The Parties irrevocably consent to the personal jurisdiction and venue of such court. The Parties agree that any such litigation shall be by bench trial only, each of the Parties irrevocably waiving their right to jury trial in any dispute arising hereunder.

9. This Agreement may not be modified except by a written agreement signed by all Parties.

10. The Parties represent, agree, and acknowledge that they have read this Agreement in its entirety and fully understand and agree to its terms.

#### **Release of Liability**

In consideration of execution of this Settlement Agreement, the Respondent, the Respondent's executors, administrators, successors and assigns, hereby releases and forever discharges the Commonwealth of Kentucky, the Board of Examiners of Psychology, and the Kentucky Attorney General, and each of their members, agents and employees in their individual and representative capacities, from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known and unknown, in law or equity, that Respondent ever had, now has, may have or claim to have against any or all of the persons or entities named in this paragraph arising out of or by reason of this investigation, this settlement or its administration.

#### **Acceptance by the Board**

This Settlement Agreement, when executed by the Respondent, shall be presented to the Kentucky Board of Examiners of Psychology with a recommendation for approval from the Board's counsel and case manager at the next regularly scheduled meeting of the Board following receipt of the executed Agreement. The Settlement Agreement shall not become effective until it has been approved by a majority of the Board and endorsed by the Chair of the Board.

The Respondent understands the Board is free to accept or reject this Settlement Agreement. The Respondent hereby agrees to waive any rights he might have to challenge,

based solely on the presentation of this Settlement Agreement to the Board, the impartiality of the Board to hear this administrative action if, after review by the Board, this Settlement Agreement is rejected.

If the Settlement Agreement is not accepted by the Board, it shall be regarded as null and void. Representations and/or admissions by the Respondent in the Settlement Agreement, or other settlement proposals, will not be regarded as evidence against the Respondent at any subsequent disciplinary hearing. The Respondent will be free to defend and no inferences against the Respondent will be made from the willingness to have entered into this Settlement Agreement.

#### **Open Records**

The Respondent acknowledges this Settlement Agreement is subject to disclosure under the Kentucky Open Records Act, may be reportable under federal law, and may be shared with any professional organization or licensing board as the Board deems appropriate in its discretion.

#### **Complete Agreement**

This Settlement Agreement, Release, Final Order consists of twelve (12) pages including the Certificate of Service, which embodies the entire agreement between the Board and the Respondent. It may not be altered, amended or modified without the express written consent of both Parties.

#### **Effective Date**

The effective date of this Settlement Agreement, Release, and Final Order shall be the date it is accepted by the Board and signed by the Chairperson of the Board.

#### **Findings of Facts, Conclusions of Law, and Final Order**

This matter is before the Board of Examiners of Psychology from the Settlement Agreement, Release and Final Order. Pursuant to KRS 13B.110(5), after having reviewed the administrative record, and the terms of the Settlement Agreement, Release and Final Order, the Board makes the following findings:

1. The Respondent is a licensed Psychological Associate in the Commonwealth of Kentucky, having been issued License No. 0034.

2. Pursuant to KRS Chapter 319.082, the Board is authorized to take disciplinary action against any license or certificate holder.

3. During the period in question, the Respondent was a licensed psychological associate.

4. The Respondent owns and operates a DUI Assessment practice in Shelbyville, Kentucky.

5. The Board ordered all psychological associates and supervisors by correspondence dated August 15, 2013, and October 29, 2013, to comply with 201 KAR 26:250.

6. The Board's Order informed all psychological associates and supervisors of a potential violation of 201 KAR 26:250 and directed them to cure this violation. All psychological associates and supervisors were warned that failure to cure the violation may also constitute a violation of KRS 319.082(1)(h).

7. The Respondent's license expired on May 9, 2016, and was canceled pursuant to KRS 319.071 on August 7, 2016.


8. The Respondent has not engaged in the practice of psychology during the pendency of this matter; and




IT IS HEREBY ORDERED THAT the Board shall issue this Private Admonishment to the Respondent, Hubert Pollett, to resolve the above-styled matter.

This is a final and appealable order. Pursuant to KRS 13B.140(1), a party may institute an appeal of this Final Order by filing a petition in the appropriate court of venue within thirty (30) days after the Final Order is mailed or delivered by personal service.

SO ORDERED this 3 day of November, 2016.

  
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Jamie A. Hopkins, Ph.D.  
Chairperson  
Kentucky Board of Examiners of Psychology

Reviewed and Agreed to by:

  
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Brian T. Judy  
Assistant Attorney General  
Office of the Attorney General  
700 Capitol Avenue, suite 118  
Frankfort, Kentucky 40601  
*Counsel for the Board*

Date: 11/3/16

  
\_\_\_\_\_  
Hubert Pollett  
*Respondent*

Date: 10.24.16

  
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Alan Q. Zaring  
*Counsel for Respondent*

Date: 10.24.16

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the **SETTLEMENT AGREEMENT, RELEASE, FINAL ORDER** was sent on this 1st day of December, 2016, to:

Certified Mail, Return Receipt Requested, to:

Hubert Pollett  
600 West Main Street  
Shelbyville, Kentucky 40067

U.S. Mail., first class and postage prepaid, to:

Alan Q. Zaring  
Zaring & Sullivan, PSC  
10 South Main Street  
P.O. Box 226  
New Castle, Kentucky 40050

Messenger Mail to:

Hon. James Dickinson  
Office of the Attorney General  
Division of Administrative Hearings  
1024 Capital Center Drive, Suite 200  
Frankfort, Kentucky 40601-8204

Brian T. Judy  
Assistant Attorney General  
Office of the Attorney General  
700 Capitol Ave., Ste. 118  
Frankfort KY 40601

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Board Administrator  
Kentucky Board of Examiners of  
Psychology