

Commonwealth of Kentucky  
Kentucky Board of Examiners of Psychology  
Agency Case No. 01-02

**RECEIVED**  
OCT 15 2001  
DIV. OF OCCUPATIONS  
& PROFESSIONS

Commonwealth of Kentucky,  
Board of Examiners of Psychology

Complainant

## Order

John Nutter, M.S.  
Certified Psychologist No. 0308

Respondent

\* \* \* \* \*

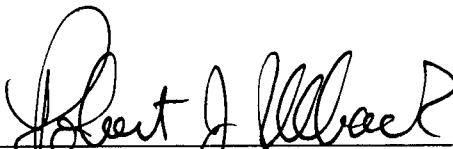
The State Board of Psychology, having met on October 15, 2001, and having voted upon the above-styled case, hereby adopts and incorporates the attached Settlement Agreement as its own.

**It Is So Ordered.**

Dated this 15<sup>th</sup> day of October, 2001.

State Board of Psychology

By:

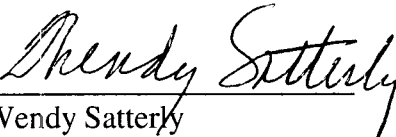
  
Robert J. Illback, Psy.D.  
Chair, State Board of Psychology

Copies sent this the 18<sup>th</sup> day of October, 2001, to:

John Nutter, M.S.  
410 O'Daniel Lane  
Lebanon, Kentucky 40033  
*Respondent* (by regular mail)

David B. Gazak, Attorney at Law  
Darby and Gazak, P.S.C.  
The Atrium Center  
10400 Linn Station Road  
Louisville, Kentucky 40223  
*Attorney for Respondent* (by regular mail)

Mark Brengelman  
Assistant Attorney General  
Capitol Building, Suite 118  
700 Capitol Avenue  
Frankfort, Kentucky 40601-3449  
*Board Counsel* (by messenger mail)

  
Wendy Satterly  
Board Administrator

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**DIV. OF OCCUPATIONS  
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**Commonwealth of Kentucky  
Board of Examiners of Psychology  
Agency Case No. 01-02**

**Commonwealth of Kentucky,  
Board of Examiners of Psychology**

**Complainant**

v.

**Settlement Agreement**

**John Nutter, M.S.  
Certified Psychologist No. 0308**

**Respondent**

\* \* \* \* \*

**Whereas**, the Kentucky Board of Examiners of Psychology (hereafter "Board") having investigated an initiating complaint regarding a former patient and having authorized a Formal Complaint and Notice of Administrative Hearing and Order against John Nutter, M.S., Certified Psychologist No. 0308 (hereafter "Respondent"), and;

**Whereas**, the Board having issued an Order and Notice of Immediate Temporary Suspension dated August 7, 2001, pursuant to KRS 319.118(2) alleging various violations of KRS Chapter 319; and

**Whereas**, the Respondent having chosen not to renew his certificate which expired May 1, 2001; and

**Whereas**, the parties mutually desire to settle the matter in an expeditious manner without resorting to a disciplinary 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 agreement; and

**Whereas**, the Respondent freely and voluntarily enters into this 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.

It is hereby stipulated and agreed between the undersigned parties that this matter shall be settled and resolved as follows:

### **Jurisdiction**

The Respondent acknowledges the Board has jurisdiction over the Respondent and the conduct which has precipitated this Settlement.

The Respondent acknowledges the Board has the legal power and authority to take disciplinary action up to and including revocation of the Respondent's credential.

The Respondent acknowledges the Board will retain jurisdiction over this matter until all terms and conditions set forth in this Settlement Agreement have been met to the satisfaction of the Board. The Respondent expressly indemnifies the Board for any costs incurred, including reasonable attorney fees, in enforcing any provision of this Settlement Agreement should the Board determine the Respondent has not met any term of this Settlement Agreement after notice and opportunity to be heard.

### **Costs**

The Board and the Respondent shall each bear their own costs incurred in this matter.

### **Findings**

The Board has completed an investigation regarding an initiating complaint about a former patient and has authorized a Formal Complaint and Notice of Administrative Hearing and Order to be filed. Specifically, the Board has evidence that might lead the Board to believe the

Respondent has committed the following act(s) which, if committed, are a *prima facie* violation of KRS Chapter 319:

The Respondent acted in violation of KRS 319.082(1)(n) by having had sexual contact with a current client on more than one (1) occasion.

**Effect Upon Credential Status: Voluntary Surrender of Certificate**

By acceptance of this Settlement Agreement, the Respondent admits that he committed the above act and that he has violated KRS 319.082(1)(n) by having had sexual contact with a current client on more than one (1) occasion. Therefore, to avoid the time, cost, and expense of a hearing, the Respondent hereby agrees to the following as the agreed upon disciplinary action.

- 1) The Respondent's certificate to practice psychology in the Commonwealth of Kentucky shall be deemed voluntarily surrendered as if revoked effective as of January 3, 2001, when the Respondent last practiced psychology;
- 2) The Respondent's certificate to practice psychology, which expired for non-renewal as of May 1, 2001, shall not be renewed or reinstated by the Board, except as set forth below;
- 3) The Respondent shall not apply for any credential from any Kentucky mental health licensing or certification Board, except as set forth below, and shall not apply for registration as a Professional Equivalent from the Cabinet for Health Services, Department for Medicaid Services, for so long as the Respondent is a resident of Kentucky.
- 4) The Respondent shall not hold himself out by any title such as "psychologist," or description of services such as "psychological," in any manner which would

reasonably be deemed to imply that he is credentialed by the Board, unless he holds a valid, current credential from the Board.

This action shall constitute disciplinary action against the certificate of the Respondent.

**Petition for Reinstatement from the Board or another mental health board**

The Respondent shall not petition the Board for reinstatement of his certificate, shall not apply for any other credential from the Board, and shall not apply for any other credential from any other Kentucky mental health licensing or certification Board, for a period of three (3) years from January 3, 2001.

If the Respondent thereafter petitions the Board for reinstatement, the Board shall investigate his petition to determine whether the Respondent has complied with the provisions of KRS Chapter 319 and is again able to engage in the practice of psychology with reasonable skill, competency, and safety to the public.

Upon such petition, if any, the Respondent hereby agrees to undergo an appropriate psychological evaluation(s) by a licensed psychologist appointed by the Board to determine whether the Respondent is again able to engage in the practice of psychology with reasonable skill, competency, and safety to the public. The expense of such psychological evaluation(s) shall be paid by the Respondent who shall be provided with a copy of such psychological evaluation(s). Upon such petition, if any, the Respondent shall have the burden of proving to the Board by clear and convincing evidence that he is of good moral character and is again able to engage in the practice of psychology with reasonable skill, competency, and safety to the public. The Respondent understands that upon reinstatement, if any, the Board may impose mandatory

supervision of the Respondent's practice in accord with Board regulation and such other terms as the Board may find necessary to protect the public.

If the Respondent shall apply to any other Kentucky mental health licensing or certification board for a credential, the Respondent shall disclose at the time of such application a true and accurate copy of this Settlement Agreement to that board.

### **Release of Liability**

In consideration of execution of this Settlement Agreement, the Respondent, for the Respondent, the Respondent's executors, administrators, successors and assigns, hereby releases and forever discharges the Commonwealth of Kentucky, Kentucky Board of Psychology, Kentucky State 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 right 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 shared with any professional organization or licensing Board as the Board deems appropriate in its discretion, and shall be made public according to KRS 319.092(6) and 201 KAR 26:140 §12.

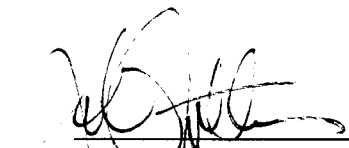
### **Complete Agreement**

This Settlement Agreement and Order consists of six (6) substantive pages, a seventh (7) signature page, and 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.



**Have Seen, Understood and Approved:**

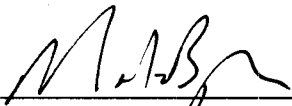
State Board of Psychology



John Nutter, M.S.  
410 O'Daniel Lane  
Lebanon, Kentucky 40033


*Respondent*

Date: 9/27/01

By: 

Mark Brengelmann  
Assistant Attorney General  
Office of the Attorney General  
Capitol Avenue, Suite 118  
Frankfort, Kentucky 40601-3449  
*Counsel for the Board*

Date: Oct. 15, 2001



David B. Gazak, Attorney at Law  
Darby and Gazak, P.S.C.  
The Atrium Center  
10400 Linn Station Road  
Louisville, Kentucky 40223

*Attorney for Respondent*

Date: 10-4-01