

Commonwealth of Kentucky
Board of Examiners of Psychology
Agency Case No. 12-04
Administrative Action No. 13-KBEP-0057

Commonwealth of Kentucky,
Board of Examiners of Psychology

v.

Kathleen Spencer, Ph. D.
(License Psychologist No. 1529)

FINAL ORDER

RECEIVED Complainant
JUL 22 2013
OCCUPATIONS
AND PROFESSIONS Respondent

This matter is before the Kentucky Board of Examiners of Psychology pursuant to KRS 13B.120. Having reviewed the Recommended Order entered by the Hearing Officer on June 25, 2013, to which no exceptions were filed thereto, I hereby adopt as my own the decision of the Hearing Officer. Therefore, case no. 13-KBEP-00057 is hereby **DISMISSED AS SETTLED**. 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.

Issued this 22nd day of July 2013.


DR. EVA ROBERTS MARKHAM
Chairperson
Kentucky Board of Examiners of Psychology

CERTIFICATE OF SERVICE

Served to:

By certified mail, return receipt requested:


Hon. Robert J. Benvenuti, III
Hon. Bradley J. Sayles
Barnett, Benvenuti & Butler PLLC
489 East Main Street, Suite 300
Lexington, Kentucky 40507
Attorney for Respondent

By messenger mail:

Hon. Brian T. Judy
Assistant Attorney General
Civil & Environmental Law
Office of the Attorney General
Capitol Building, Suite 118
700 Capitol Avenue
Frankfort, Kentucky 40601-3449
Attorney for the Board

Hon. Stuart W. Cobb
Administrative Hearings Branch
Office of the Attorney General
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601-8204
Hearing Officer.

This 23 day of July 2013.



ROBIN VICK
Division of Occupations and Professions
Phone: (502) 564-3296
Fax: (502) 564-4818

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Board of Examiners of Psychology
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JUN 03 2013
OCCUPATIONS
AND PROFESSIONS

Commonwealth of Kentucky,
Board of Examiners of Psychology

Complainant

v.

SETTLEMENT AGREEMENT

Kathleen Spencer, Ph. D.
(License Psychologist No. 1529)

Respondent

This Settlement Agreement and Mutual Release (the "Agreement") is entered into by the Kentucky Board of Examiners of Psychology (hereafter "Board") having voted to issue a Formal Complaint against Kathleen Spencer, Ph.D., Licensed Psychologist No. 1529 (hereafter "Respondent") (collectively the "Parties").

Witnesseth

WHEREAS, on or about February 21, 2013, the Board filed an Administrative Complaint in Administrative Action No. 13-KBEP-0057, alleging that the Respondent: (1) violated KRS 319.082(1) (f) by violating Kentucky Administrative Regulation 201 KAR 26: 145 Section 4(2)(b)3 and (c) by entering into a potentially exploitive relationship with a client; (2) violated KRS 319.082(1)(f) by violating Kentucky Administrative Regulation 201 KAR 26:145 Section 4(2)(b)2 and (c) by entering into a sexual relationship with a client; and (3) violated KRS 319.082(1)(c) by being misleading or deceptive in relation to the scope of her practice and prior knowledge of C.B.

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 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;

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. The Board agrees to dismiss Court I of the Formal Complaint (violation of KRS 319.082(1) (f) by violating Kentucky Administrative Regulation 201 KAR 26: 145 Section 4(2)(b)3 and (c)) and Court III of the Formal Complaint (violation of KRS 319.082(1)(c)). Court II of the Formal Complaint (violation of KRS 319.082(1)(f) by violating Kentucky Administrative Regulation 201 KAR 26:145 Section 4(2)(b)2 and (c)) is not dismissed.

2. By entering into this Agreement, the Respondent does not admit to any wrongdoing or liability.

3. The Respondent agrees to:

(a) Accept a one-year suspension, which is probated for two years from the execution of this Agreement by the Board chair or her designee;

- (b) Continue to see her current therapist until released from treatment;
- (c) Inform the Board at least thirty (30) days prior to treating patients so as to allow time for the Board to appoint a supervisor;
- (d) While treating patients, be supervised by a Board-appointed supervisor on a bi-weekly basis during her two-year probationary period and shall focus on boundaries and ethics, as well as relationships with clients. If the Respondent and Board-appointed supervisor believe that supervision is no longer necessary, the Respondent shall request further supervision be waived as unnecessary;

and

- (e) Attend three (3) hours of continuing ethics educations each year while not being supervised and attend one (1) hour of continuing ethics educations each year while being supervised for three (3) years from the execution of this Agreement by the Board chair or her designee.

4. The Board agrees to issue a Private Reprimand and not seek additional disciplinary action.

5. The parties agree to execute all documents necessary to settle and dismiss Administrative Action No. 13-KBEP-00057. The parties, through its counsel, shall file an Agreed Order to Dismiss as Moot.

6. 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 319.082(h) for which the Board may impose additional penalties available under law after notice and opportunity to be heard.

7. 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 documentations to effectuate the purposes as stated herein.

8. Each of the Parties represents and warrants to the other that it has 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.

9. 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 its right to jury trial in any dispute arising hereunder.

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

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

12. The Board and the Respondent shall each bear their own costs incurred in this matter, except as provided below.

Costs

The Board and the Respondent shall each bear their own costs, expenses and attorney fees incurred in this matter, except as provided below.

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, Board of Psychology, Kentucky State Board of Examiners of Psychology, and the Kentucky Office of the 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, the Formal Complaint, or this Settlement Agreement.

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

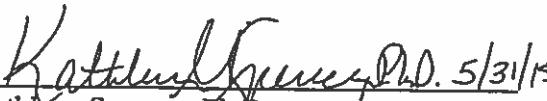
effective until it has been approved by a majority of the Board and endorsed by a representative member of the Board.

The Respondent understands the Board is free to accept or reject this Settlement Agreement. The Respondent hereby agrees to waive any right she 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.


Complete Agreement


This Settlement Agreement consists of six (6) pages 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.

IN WITNESS WHEREOF, the undersigned have seen, approved and agreed:


Kathleen Spencer, Ph.D. 5/31/13
Respondent Date


Robert Benvenuti 5/31/13
Brad Sayles Date
Counsel for the Respondent


Eva Markham, Ed.D. 6/3/13
Chairperson Date
Kentucky Board of Examiners of Psychology


Brian T. Judy 6/3/13
Assistant Attorney General Date
Counsel for the Board