

Jane E. Weiler, #25276
Assistant Attorney General
Office of the Kansas Attorney General
120 SW 10th Avenue, Second Floor
Topeka, KS 66612-1597

BEFORE THE KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD
700 SW Harrison Street, Suite 420
Topeka, Kansas 66603-3929

In the Matter of)
MARK S. GREEN, LP)
LP License No. 2354) Case No. 22-LP-0092
)
Respondent/Licensee.)

CONSENT AGREEMENT AND FINAL ORDER

NOW on this 17 day of August, 2022, the above-captioned matter comes before the Kansas Behavioral Sciences Regulatory Board ("Board") by and through Assistant Attorney General Jane E. Weiler on behalf of the Board, and by agreement of Mark S. Green, ("Licensee"), by an through his attorney of record, Diane Bellquist of Joseph, Hollander & Craft LLC, for the purposes of resolving the above-captioned matter.

The parties knowingly and voluntarily agree as follows:

1. On September 16, 2015, the Board issued Licensee an original Licensed Psychologist ("LP") No. 2354. Licensee is currently, and was at all times relevant, an LP within the meaning of the Kansas Licensure of Psychologists Act, K.S.A. 74-5301, *et seq.*, and amendments thereto.

2. On or about January 20, 2022, the Board received a complaint concerning Licensee's unprofessional conduct, alleging Licensee may have violated certain statutes and/or regulations governing the practice of an LP in Kansas.

3. From approximately February 2020 to February 2021, Licensee provided therapy to Client.

4. During this time, Licensee and Client began to email and text between sessions. Personal information was exchanged in these emails and text messages.

Also during these exchanges, Client did tell Licensee that she had physical feelings for Licensee.

5. Licensee did show to his wife the text messages between him and Client. Client did not sign any informed consent to allow Licensee to show texts messages to a third party.

6. Additionally, Licensee brought his wife to a therapy session that was scheduled with Client.

7. In February 2021, Client terminated her therapy with Licensee.

8. In April 2021, July 2021, and December 2021, Licensee sent emails to Client's husband, and Licensee cc'd Client on these emails.

APPLICABLE LAW

9. Pursuant to K.S.A. 74-5302(a): "Practice of psychology" means the application of established principles of learning, motivation, perception, thinking and emotional relationships to problems of behavior adjustment, group relations and behavior modification, by persons trained in psychology. The application of such principles includes, but is not restricted to, counseling and the use of psychological remedial measures with persons, in groups or individually, having adjustment or emotional problems in the areas of work, family, school and personal relationships; measuring and testing personality, intelligence, aptitudes, public opinion, attitudes and skills; the teaching of such subject matter; and the conducting of research on problems relating to human behavior, except that in all cases involving the care of the sick and ill as defined by the laws of this state, the primary responsibility devolves upon those licensed under the Kansas healing arts act. The practice of psychology includes the diagnosis and treatment of mental disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations. If a licensed psychologist cannot make an independent diagnosis of a mental disorder, such psychologist shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a mental disorder. A client may request in writing that such consultation be waived and such request shall be made a part of the client's record. A licensed psychologist may continue to evaluate and treat the client until such time that the medical consultation is obtained or waived.

10. Pursuant to K.S.A. 74-5324(a)(5): The board may refuse to issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee or an applicant for a license has violated a provision of

the licensure of psychologists act of the state of Kansas or one or more rules and regulations of the Board. Specifically:

- a. K.A.R. 102-1-10a(a)(2): Practicing psychology in an incompetent manner... performing professional services that are inconsistent with the licensee's education, training, or experience;
- b. K.A.R. 102-1-10a(b)(2): practicing with impaired judgment or objectivity, which shall include ... failing to recognize, seek intervention, and make arrangements for the care of clients if one's own personal problems, emotional distress, or mental health difficulties interfere with or negatively impact professional judgment, professional performance and functioning, or the ability to act in the client's best interests.
- c. K.A.R. 102-1-10a(c)(3): Engaging in harmful dual relationships... exercising undue influence over any client;
- d. K.A.R. 102-1-10a(f)(8): ignoring client welfare, which shall include... failing to terminate a professional relationship if it becomes reasonably clear that the patient or client no longer needs the service, is not benefiting from continued service, or is being harmed by continued service;
- e. K.A.R. 102-1-10a(g)(2): failing to protect confidentiality, which shall include... revealing any information regarding a client or failing to protect information contained in a client's records...; and
- f. K.A.R. 102-1-10a(g)(3)(B): failing to protect confidentiality, which shall include... failing to obtain written, informed consent from each client or the client's legal representative or representatives or from any other participant before performing ... permitting third-party observation of the activities of the client or participant.

11. Licensee and the Board mutually desire to enter into this Consent Agreement and Final Order in lieu of further summary and adjudicative proceedings.

12. Licensee understands that by entering into this Consent Agreement and Final Order Licensee waives all rights to further adjudication of facts and law that could be determined pursuant to summary proceedings or a hearing conducted in accordance with the Kansas Administrative Procedures Act, K.S.A. 77-501 *et seq.* in relation to Case No. 22-LP-0092.

13. Licensee waives the right to file a motion for reconsideration and all rights of appeal pursuant to the Kansas Act for Judicial Review, K.S.A. 77-601 *et seq.* in relation to Case No. 22-LP-0092.

14. The Board accepts Licensee's waiver of rights and stipulations.

ORDER

WHEREFORE, the Board finds that the above facts have been established by clear and convincing evidence; and further finds that Licensee was in violation of K.S.A. 74-5324(a)(5), as defined in K.A.R. 102-1-10a(a)(2) and K.A.R. 102-1-10a(c)(3), when Licensee performed professional services inconsistent with his training when he entered into a dual relationship with Client.

Further, the Board finds that Licensee was also in violation of K.S.A. 74-5324(a)(5), as defined in K.A.R. 102-1-10a(b)(2) and K.A.R. 102-1-10a(f)(8), in that Licensee did not terminate the professional relationship, nor did he make arrangements for Client when he entered into the dual relationship with his client, which was not in the best interest of Client.

Additionally, the Board finds that Licensee was in violation of K.S.A. 74-5324(a)(5), as defined in K.A.R. 102-1-10a(f)(8), when Licensee contacted Client well after the termination.

Lastly, the Board finds that Licensee was in violation of K.S.A. 74-5324(a)(5), as defined in K.A.R. 102-1-10a(g)(2) and K.A.R. 102-1-10a(g)(3)(B), in that Licensee failed to protect Client's confidentiality when he failed to obtain written consent from Client before he showed his wife the text messages between him and Client; and when he brought his wife to a therapy session involving Client.

AND WHEREAS Licensee and the Board mutually desire to enter into a Consent Agreement and Final Order in lieu of further adjudicative proceedings to resolve the reported violations.

NOW THEREFORE, Licensee consents to the following terms and conditions, and the Board orders that:

15. Licensee shall practice only under individual supervision by an independent clinical-level supervisor to be approved by the Board if employed using his LP license. There shall be no dual relationship with the supervisor. Licensee shall have weekly one (1) hour meetings with his supervisor. These required meetings shall be in a face to face manner; however, at least every other week may be by a audio/video conference, but not by audio alone. The focus shall be related to dual relationships, professional boundaries, and confidentiality. This requirement shall continue for two (2) years.

16. After the first year of supervision, the Board's Complaint Review Committee shall review the quarterly reports to determine if there is compelling evidence for a reduction of the amount meetings between Licensee and Licensee's supervisor for the remaining duration of the supervision.

17. Within thirty (30) days of the effective date of this Consent Agreement and Final Order; or if Licensee is not currently working using his LP license and prior to the beginning of using his LP license, Licensee shall submit to the Board's investigator the name of his proposed supervisor.

18. Licensee shall provide a copy of this Consent Agreement and Final Order to the supervisor and authorize the supervisor to provide written quarterly reports to the Board's Investigator for two (2) year term of supervision. There shall be a minimum of eight (8) quarterly reports (every three [3] months) submitted to the Board's investigator during this two (2) year supervision timeframe.

19. Licensee shall provide an unredacted copy of this Consent Agreement and Final Order to his supervisor.

20. During the time this Consent Agreement and Final Order is in effect, Licensee shall not serve as a supervisor to any person actively using a license regulated by the Board in a position in which such license is required. In addition, Licensee shall not engage in the provision of clinical supervision to any person attaining supervised experience in preparation by the Board. Finally, Licensee shall not supervise any unlicensed person, including students or volunteers, when such persons are engaged in the delivery of professional psychology services.

21. Licensee shall attend, and successfully complete the "Professional Boundary Training for Medical Professionals" offered by the Acumen Institute in Lawrence, Kansas. Licensee shall complete the course scheduled for November 10-11, 2022.

22. These hours shall be in addition to those continuing education hours required for renewal of his license.

23. All foreseen and unforeseen expenses to complete the aforementioned course including travel, lodging, program fee, meals, etc., shall be at Licensee's own expense.

24. Licensee agrees to pay to the Board the costs incurred at the Kansas Office of Administrative Hearings ("OAH") related to this case. Licensee shall pay the amount listed in the Statement of Costs, which shall be prepared after receipt of the final bill submitted from OAH to the Board. Licensee shall pay the amount within 30 days of receipt of the Statement of Costs. Licensee shall remit this payment by check or money order, payable to the "Kansas Behavioral Sciences Regulatory Board", and sent to the Board's investigator at its offices located at 700 SW Harrison St, Suite 420, Topeka, Kansas, 66603.

25. Licensee shall receive individual therapy until the therapist concludes the process is complete or that therapy is no longer needed. Licensee shall provide the name of his therapist to the Board within thirty (30) days of the effective date of this

Consent Agreement and Final Order, along with a release from the therapist for reports. Licensee shall ensure that his therapists submits to the Board's investigator quarterly reports until the therapist deems therapy is no longer needed.

26. Licensee must notify the Board's Investigator within ten (10) calendar days of a change in his employment and/or change of address.

27. Licensee shall be responsible for any costs and expenses incurred in satisfying the terms of this Consent Agreement and Final Order.

28. Licensee shall submit to the Board's investigator at its offices located at 700 SW Harrison St, Suite 420, Topeka, Kansas, 66603, any and all documents evidencing compliance with the terms and conditions required by this Consent Agreement and Final Order.

29. After completion of the actions set out in the Consent Agreement and Final Order, Licensee will have no remaining obligations to the Board in relation to this case. However, Licensee may be subject to further enforcement action if Licensee fails to comply with the terms, conditions, and requirements imposed by this Consent Agreement and Final Order.

30. The matters referred to in this Consent Agreement and Final Order shall not be grounds for future action against Licensee, except the extent that that such matters may be relevant for future disciplinary or licensure proceedings in the Board's consideration of the factors identified in K.S.A. 65-6313 [Licenses; effective and expiration dates; renewal; continuing education; safety awareness training; reinstatement; duplicate; notice of change of address], and K.S.A. 65-6311 [Grounds for suspension, limitation, condition revocation or refusal to issue or renew license; procedure; licensure of applicant with felony conviction, requirements.

31. Except as provided in paragraph 30, this Consent Agreement and Final Order shall operate as a complete release of all claims the parties may have against each other pending before the Board and arising out of the Board's investigation of these matters. Licensee agrees not to file, or cause to be filed, any litigation or claims in any federal or state court of law or federal or state administrative agency against the Board, its agents, Board members, or employees, individually or in their official capacity. Such litigation or claims include, but are not limited to, any K.S.A. Chapter 60 or Chapter 61 civil action regarding negligence and/or a 42 United States Code action and/or any administrative petition for redress. Licensee agrees that all actions in this matter were a bona fide use of administrative discretion on the part of the Board, its members, and employees, which is a statutory exception to liability within the Kansas Tort Claims Act, K.S.A. 75-6104(b), (c) or (e).

32. Licensee agrees that this Consent Agreement and Final Order conforms to Kansas and federal law and that the Board has jurisdiction to enter into it and enter the Final Order provided for herein.

33. Licensee understands that a notification of this Consent Agreement and Final Order shall be provided to any other state licensing board or entity if Licensee is also licensed, registered or certified in another state.

34. This Consent Agreement and Final Order shall be a public record in the custody of the Board.


35. This Consent Agreement and Final Order constitutes the entire agreement of the parties and may only be modified by order of the Board or by a subsequent writing signed by the parties. The agreement shall be interpreted in accordance with the laws of the State of Kansas.

36. This Consent Agreement and Final Order shall become effective on the date indicated in the Certificate of Service.

WHEREFORE, the parties consent to these provisions, which are hereby made the Final Order of the Kansas Behavioral Sciences Regulatory Board in the above-captioned case.

IT IS SO ORDERED.

Dated this _____ day of _____ 2022.



Chairperson, Complaint Review Committee
On behalf of Kansas Behavioral Sciences
Regulatory Board

AGREED AND CONSENTED TO BY:

DocuSigned by:
Mark S. Green
26C2EE80509D43F...

Mark S. Green, LP
Respondent/Licensee

8/16/2022

Date

Diane Belquist

Diane Belquist #20969
Attorney for Respondent/Licensee

8/16/2022

Date

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was served on this 17 day of August 2022, by depositing the same in the United States mail, postage prepaid, addressed to:

Diane Belquist
Attorney for Respondent/Licensee
Joseph, Hollander & Craft LLC
1508 SW Topeka Blvd.
Topeka, KS 66612

and by email to: jane.weiler@ag.ks.gov

Jane E. Weiler, Esq.
Assistant Attorney General
Disciplinary Counsel for the Board

Cindy D'Ercole

For the Behavioral Sciences
Regulatory Board