

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE PSYCHOLOGY EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :  
: FINAL DECISION AND ORDER  
MERVIN R. SMUCKER, Ph.D., : ORDER 000005  
RESPONDENT. :

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[Division of Enforcement Case # 06 PSY 049]

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Mervin R. Smucker, Ph.D.  
109 Carter Road  
Goshen, IN 46526

Division of Enforcement  
Department of Regulation and Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

Wisconsin Psychology Examining Board  
Department of Regulation and Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Psychology Examining Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Mervin R. Smucker, Ph.D., Respondent, date of birth December 31, 1949, is licensed by the Wisconsin Psychology Examining Board as a psychologist in the state of Wisconsin pursuant to license number 1538, which was first granted February 13, 1990.
2. At this time, Respondent cannot legally practice psychology in Wisconsin because he did not renew his license when it expired on September 30, 2009, at the end of the biennial period. However, Respondent could renew his license and begin practicing at any time by paying a late fee and certifying that he has completed the required continuing education.

3. Respondent's last address reported to the Department of Regulation and Licensing is 109 Carter Road, Goshen, IN 46526.

4. During the events of this matter, Respondent specialized in cognitive and trauma therapy, had a clinical faculty position at the Medical College of Wisconsin in Milwaukee and practiced psychology at the following locations:

- a. Columbia St. Mary's Hospital, 2015 E. Newport Avenue, Milwaukee
- b. Milwaukee/Aurora Psychiatric Hospital, Lorton Building, 1220 Dewey Avenue, Wauwatosa
- c. 6110 N. Point Washington Road, Milwaukee, Wisconsin.

5. From October 29, 2002 until May 20, 2005 Respondent provided psychotherapy to Ms. A. His initial diagnoses were post traumatic stress disorder (PTSD) and depression and PTSD was the diagnosis on health insurance claims forms Respondent submitted throughout treatment. Ms. A gave a history of several traumatic experiences, including an event that occurred when she was a high school foreign exchange student in Brazil. Ms. A reported that she and a boy friend were abducted. She witnessed her boy friend's murder and she was beaten, and raped by a group of men. This trauma was the primary focus of treatment. Treatment sessions were usually held twice a week and lasted one to two hours.

6. Respondent did not make records or notes of his treatment of Ms. A, after March 11, 2004. Respondent contends this was because she asked him not to do so.

7. During the period of time Ms. A was his client, Respondent and Ms. A also had a relationship outside therapy sessions. This included, among other things:

a. Respondent giving Ms. A rides to her home after two or three treatment sessions. These rides took Respondent several miles out of his way.

b. Respondent and Ms. A being together in Respondent's home in Fox Point and a rental property he owned in Milwaukee.

c. On October 18, 2004, Mrs. A's son drove her to a pick up point on the West Side of Milwaukee, where she met Respondent who transported her to a Middleton Hotel to attend the Midwest Conference on Child Sexual Abuse and Incest conference. No others were in the vehicle. Mrs. A attended the conference; Respondent was a presenter. At the conclusion of the conference, Mrs. A was picked up by her husband at the hotel and the two of them returned home together.

d. The hotel's "Guest History" for Respondent's reservation for his 3 night stay at the hotel beginning October 18, 2004 shows a special request was made for a connecting room. The hotel's "Guest History" for Ms. A's reservation for her 3 night stay at the hotel beginning October 18, 2004 has a comment that she requested to be near Dr. Respondent and Ms. A received connecting rooms when they arrived together for that stay.

8. Ms. A alleges that Respondent had sexual contact and intercourse with her during the time she was his client. Respondent denies having sexual contact or intercourse with Ms. A at any time.

#### CONCLUSIONS OF LAW

1. The Psychology Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 455.09 and authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

2. Respondent, by having the relationship with Ms. A outside the therapy sessions with Ms. A while she was his client, failed to avoid a dual relationship and a relationship that could impair his objectivity and create a conflict of interest, which was unprofessional conduct as defined by Wis. Adm. Code § PSY 5.01(17) (2005) and subjects him to discipline pursuant to Wis. Stat. § 455.09(g).

3. Respondent, by failing to make records of his treatment of Ms. A after March 11, 2004, failed to maintain adequate records relating to services provided in the course of the professional relationship, which was unprofessional conduct as defined by Wis. Adm. Code § PSY 5.01(17) (2005) and subjects him to discipline pursuant to Wis. Stat. § 455.09(g).

#### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The SURRENDER by Mervin R. Smucker, Ph.D., of his right to renew his license as a psychologist in the state of Wisconsin is hereby ACCEPTED.

2. Respondent shall never apply or reapply for any credential from the Wisconsin Psychology Examining Board.

3. Respondent shall not provide individual or group psychotherapy to a client or patient in Wisconsin. If Respondent violates this paragraph of this Order, the Board may change the surrender of Respondent's right to renew his license to the revocation of Respondent's right to renew his license.

4. Respondent shall, within 180 days of the date of this Order, pay to the Department of Regulation and Licensing costs of this proceeding in the amount of \$3,907.00 pursuant to Wis. Stat. § 440.22(2).

5. Payment shall be mailed or delivered to:

Department Monitor  
Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935  
Fax (608) 266-2264  
Telephone (608) 267-3817

6. This Order is effective on the date it is signed.

Wisconsin Psychology Examining Board

By: Dr. Melissa Westendorf  
A Member of the Board

2-10-2010  
Date

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