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STATE OF WISCONSIN
BEFORE THE PSYCHOLOGY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST:

GERALD J. WELLENS, PH.D.,
RESPONDENT

FINAL DECISION AND ORDER
LS0110182PSY

The parties to this action for the purposes of § 227.53, Stats., are:

Gerald J. Wellens, Ph.D.

P.O. Box 157

Green Bay, WI 54305

Wisconsin Psychology Examining Board

PO Box 8935

Madison, WI 53708-8935

Department of Regulation and Licensing

Division of Enforcement

PO Box 8935

Madison, WI 53708-8935

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

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Gerald J. Wellens, Ph.D., Respondent, date of birth November 24, 1942, is licensed by the Wisconsin Psychology Examining Board as a psychologist in the State of Wisconsin, pursuant to license number 669, which was first granted November 11, 1977.
2. Respondent's last address reported to the Department of Regulation and Licensing is P.O. Box 157, Green Bay, WI 54305.
3. At all times relevant, Respondent owned the Marriage and Family Therapy Center (MFTC), 130 East Walnut Street, Green Bay, WI 54305-0157. Respondent was the clinical director and practiced psychology at MFTC.
4. Prior to becoming a psychotherapy client of Respondent on August 30, 1991, Mr. A, an attorney, had retained Respondent as an expert witness to perform evaluations and give testimony on behalf of Mr. A's clients in several child custody and other legal matters. In other matters, Respondent had also functioned as an expert witness for opposing counsel.
5. Respondent provided regular psychotherapy to Mr. A from August 30, 1991 through December of 1992. Mr. A was initially treated for depression and anger regarding a possible divorce from his wife. Respondent also assisted Mr. A regarding the effects that a divorce would have on his sons and daughters.

6. During the time period that Mr. A was in therapy with Respondent, Respondent retained Mr. A to perform legal services for Respondent, as follows:

- a. In late October of 1991, Respondent asked Mr. A to interview people who had been present in a court room who may have heard a remark that Respondent made after giving testimony in a child placement hearing.
- b. In late 1991, Mr. A drafted an employee termination contract which Respondent would have executed by employees ending employment at MFTC.
- c. In July 1992, Mr. A rendered an opinion on a business property that Respondent wanted to buy.

7. In January 1992, Mr. A filed for divorce. Issues of custody and placement were contested. In August 1992, the attorney representing Mr. A in the divorce action retained Respondent as an expert witness for that case. The attorney requested Respondent to:

- a. Review tests administered to Mr. A and his family in August and September of 1992 by a psychologist retained by the children's guardian ad litem to evaluate the children, to give an opinion on custody and placement and to give an independent opinion of the other psychologist's interpretation of the test data and recommendations.
- b. Compare the results of an August 1991 MMPI of Mr. A given by Respondent with the results of a September 1992 MMPI of Mr. A given by the other psychologist.
- c. Give an independent, objective opinion on custody and physical placement of Mr. A's children. To accomplish the request, Respondent was asked to compare the other psychologist's report and recommendations with information compiled by an area clinical social worker (social worker) on Mr. A's children; to include test and therapy information from Mr. A's psychotherapy sessions with Respondent; and to read depositions of Mr. A's wife and the social worker.

8. Respondent told Mr. A's attorney of his contacts as Mr. A's therapist and as an expert witness in Mr. A's cases. He also told the attorney that at Mr. A's request, he had unsuccessfully attempted to evaluate Mr. A's boys in June of that year. Respondent was not asked about and did not volunteer that Respondent had received professional legal services from Mr. A.

9. On December 3, 1992, Respondent was questioned by Mr. A's spouse's attorney in a discovery deposition in the divorce case. In the deposition, Respondent identified his contacts with Mr. A as Mr. A's therapist and as an expert witness in past cases. Respondent was not asked about and did not volunteer that Respondent had received professional legal services from Mr. A.

10. On December 11, 1992, a deposition was taken of Respondent in Mr. A's divorce case, which was to be used at the trial in lieu of trial testimony. In that deposition, Respondent again identified his contacts with Mr. A as a therapist and as an expert witness. Again, Respondent was not asked about and did not volunteer that Respondent had received professional legal services from Mr. A.

11. Respondent's multiple relationships were:

- o Psychologist for Mr. A.
- o Expert witness performing custody evaluation for Mr. A's family.
- o Legal client of Mr. A.

12. The Division of Enforcement has had the records of the divorce proceeding reviewed by a licensed psychologist. That psychologist has rendered his opinion that Respondent's testimony was consistent with the test results, interviews and histories which were taken and that there is no evidence that the objectivity of Respondent's actual testimony was influenced by Respondent's multiple relationships with Mr. A.

13. The existence of Respondent's multiple relationships with Mr. A did present a potential and an appearance that Respondent's objectivity and testimony could be improperly influenced.

CONCLUSIONS OF LAW

1. The Psychology Examining Board has jurisdiction over this matter pursuant to § 455.09, Stats.

2. The Psychology Examining Board has authority to enter into this stipulated resolution of this matter pursuant to § 227.44(5), Stats.

3. Respondent, by engaging in the conduct as set out above, has violated § PSY 5.01(17), Wis. Adm. Code, by failing to avoid a dual relationship that may impair Respondent's objectivity or create a conflict of interest, and is subject to discipline pursuant to § 455.09(1)(g) and (h), Stats.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Respondent, Gerald J. Wellens, Ph.D., is hereby REPRIMANDED for the conduct set out above.
2. Respondent shall, within one hundred twenty (120) days of the date of this order, take and complete a full day course of continuing education on the subject of psychologist/client boundaries, which course(s) shall first be approved by the Board or its designee. Respondent shall, within 30 days of completion of such course or courses, provide evidence of compliance with this paragraph to the Department Monitor.
3. Any credits Respondent receives for the course(s) completed to satisfy the terms of this order shall not be applied toward satisfaction of the continuing education required during the October 1, 2001 through September 30, 2003 registration biennium.
4. If Respondent is unable to take or complete the course or courses required by paragraph 2 within 120 days because of illness or other circumstances acceptable to the Board or its designee, Respondent shall, within six months of the date of this order, take and complete the required course or courses, which shall first be approved by the Board or its designee. Respondent shall, within 30 days of completion of such course or courses, provide evidence of compliance with this paragraph to the Department Monitor.
5. Requests for approval of educational programs and notification of completion of educational programs shall be mailed, faxed or delivered to:

Department Monitor

Department of Regulation And Licensing

Division of Enforcement

1400 East Washington Ave.

P.O. Box 8935

Madison, WI 53708-8935

Fax: (608) 266-2264

6. Violation of any term or condition of this Order may constitute grounds for revocation of Respondent's license to practice psychology in Wisconsin. Should the Board determine that there is probable cause to believe that Respondent has violated the terms of this Order, the Board may order that Respondent's license be summarily suspended pending investigation of and hearing on the alleged violation.

The rights of a party aggrieved by this Decision to petition the Board for rehearing and to petition for judicial review are set forth on the attached "Notice of Appeal Information".

Dated at Madison, Wisconsin this 18th day of October, 2001.

Barbara A. Van Horne, Ph.D.

Chairperson

Psychology Examining Board