

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE PROFESSIONAL COUNSELOR SECTION
OF THE MARRIAGE AND FAMILY THERAPY, PROFESSIONAL COUNSELING AND
SOCIAL WORK EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

MICHAEL J. HERMSMEIER,
RESPONDENT.

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:

FINAL DECISION AND ORDER

ORDER 0001225

[Division of Enforcement Case # 11 CPC 012]

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

Michael J. Hermsmeier
6625 Broad Creek Blvd
Madison, WI 53718

Division of Enforcement
Department of Safety and Professional Services
1400 E. Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Professional Counselor Section
Wisconsin Marriage and Family Therapy,
Professional Counseling and Social Work Examining Board
1400 E. 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 approval of the Professional Counselor Section of the Marriage and Family Therapy, Professional Counseling, and Social Worker Examining Board. The Section has reviewed this Stipulation and considers it acceptable.

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

FINDINGS OF FACT

1. Michael J. Hermsmeier, ("Respondent") was born on January 5, 1967, and is licensed to practice as a professional counselor in the state of Wisconsin, pursuant to license number 2827-125. This license was granted on May 24, 1999.

2. Respondent's last known address reported to the Professional Counselor Section of the Marriage and Family Therapy, Professional Counseling, and Social Worker Examining Board is 6625 Broad Creek Blvd, Madison, WI 53718.

3. Respondent was previously disciplined by the Board on July 7, 2004, in file 03CPC021, for failing to avoid a dual relationship that may have impaired his objectivity or created a conflict of interest. Respondent was reprimanded and ordered to take a minimum of 6.5 hours of continuing education in boundaries and ethics and to pay costs of the investigation.

4. At all times relevant to this proceeding, Respondent was employed with the State of Wisconsin Department of Workforce Development, Division of Vocational Rehabilitation (DVR) office in Madison, Wisconsin, as a Vocational Rehabilitation Counselor. Respondent's responsibilities included provision of vocational rehabilitation services to persons with disabilities, including but not limited to: vocational counseling and planning; arranging for vocational evaluation and training; and providing job placement and follow-up to job-ready clients.

5. On March 24, 2008, Respondent was assigned a case for consumer JN, a female born July 26, 1971. Respondent performed an initial intake and placed JN on the DVR consumer wait list. JN's case became active on February 2, 2009. Respondent provided counseling services to JN through May 2010.

6. A DVR staff member at the Portage, Wisconsin office reported seeing a personal letter to JN written by Respondent. Respondent had written the letter to JN on October 22, 2010 and it contained personal information and references to a sexual relationship between the two. The DVR staff member shared the letter with a DVR counselor who had also seen correspondence between Respondent and JN.

7. On January 20, 2011, DVR management became aware of possible violations by Respondent regarding JN. DVR conducted an investigation, and found that Respondent had maintained a dual relationship with JN throughout 2010. Respondent represented himself as a DVR counselor on business when he made personal visits to JN when she was an inmate at Dane County Jail. In addition to the October 22, 2010 letter, DVR found a second letter from Respondent to JN containing personal and religious references, as well as references to having an extra-marital relationship with JN.

8. In an investigative interview with DVR, Respondent admitted to sending letters that contained explicit sexual references and that he failed to record services he provided JN and details of JN's employability.

9. As a result of Respondent's conduct with JN, the Department of Workforce Development determined that Respondent was a substantial risk to DVR consumers in his ability to exercise sound professional judgment required by his position. Respondent resigned from DVR on March 7, 2011.

CONCLUSIONS OF LAW

1. The Professional Counselor Section of the Wisconsin Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors has jurisdiction over this matter pursuant to Wis. Stat. § 457.26(2), and has authority to enter into this stipulation resolution pursuant to Wis. Stat. § 227.44(5).

2. Respondent's conduct of engaging in sexual contact, sexual conduct, or any other behavior with a client which could reasonably be construed as seductive, as described above, is in violation with Wis. Admin. Code § MPSW 20.02(11).

3. Respondent's conduct of failing to avoid a dual relationship that may impair his objectivity or create a conflict of interest, as described above, is in violation with Wis. Admin. Code § MPSW 20.02(13).

4. Respondent's conduct of failing to maintain adequate records relating to services provided to a client in the course of a professional relationship, as described above, is in violation with Wis. Admin. Code § MPSW 20.02(18).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The Section accepts the **SURRENDER** of Respondent's license (2827-125) and right to renew his license as a professional counselor, effective immediately.

2. Within 90 days of this Order, Respondent shall pay the costs of this proceeding in the amount of Five Hundred Seventy Two dollars (\$572.00). Payment shall be made to the Department of Safety and Professional Services, and mailed to Department Monitor, Division of Enforcement, P. O. Box 8935, Madison, Wisconsin 53708.

3. This Order is effective on the date of its signing.

Professional Counselor Section of the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board

By: _____

A Member of the Section

11/18/11

Date