

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 DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
BRIAN R. MESSMAN, L.P.C.,	:	
RESPONDENT.	:	0005 181

Division of Legal Services and Compliance Case No. 16 CPC 025

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

Brian R. Messman, L.P.C.
639 Constitution Lane
De Forest, WI 53532

Professional Counselor Section of the Wisconsin Marriage and Family Therapy,
Professional Counseling, and Social Work Examining Board
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Professional Counselor Section of the Wisconsin Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board (Section). 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, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Brian R. Messman, L.P.C., (dob June 18, 1976) is licensed in the state of Wisconsin to practice professional counseling, having license number 4158-125, first granted on January 22, 2009, and current through February 28, 2019. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 639 Constitution Lane, De Forest, Wisconsin 53532.

2. At all times relevant to this proceeding, Respondent was employed as a DVR counselor at a government agency located in Waukesha, Wisconsin.

3. On July 5, 2016, the Waukesha Police Department (PD) executed a search warrant at Respondent's residence related to child pornography investigation.

4. Respondent admitted to downloading and viewing child pornography during an interview with the officer.

5. On May 2, 2017, Respondent was convicted of five (5) counts of possess/distribute/ exhibit an intimate representation (victim less than 18 years old), a felony, in violation of Wis. Stat. § 942.09(2)(am)3, in the Waukesha County Circuit Court case number 2016CF000826.

6. As a result of the conviction, Respondent was sentenced to 5 years of probation. This sentence was a joint recommendation between the State and the defense. The sentence was acceptable and imposed by the Court.

7. The conduct underlying Respondent's conviction does not involve any allegations of the conduct occurring at work, on work time, or utilizing work resources.

8. The conduct underlying Respondent's conviction does not involve individuals related to Respondent's job responsibilities.

9. The conduct underlying Respondent's conviction does not involve any allegation of contact or attempted contact with individuals under the age of 18.

10. The circumstances of the above conviction(s) substantially relate to the practice of professional counseling.

11. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Professional Counselor Section of the Wisconsin Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 457.26(2), and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Brian R. Messman, L.P.C., engaged in unprofessional conduct as defined by Wis. Admin. Code § MPSW 20.02(2), by violating a law of any jurisdiction, the circumstances of which substantially relate to the practice of professional counseling.

3. As a result of the above convictions, Brian R. Messman, L.P.C., is subject to discipline pursuant to Wis. Stat. § 457.26(2)(b)

ORDER

1. The attached Stipulation is accepted.
2. The voluntary SURRENDER of the license to practice professional counseling in the state of Wisconsin issued to Brian R. Messman, L.P.C. (license no. 4158-125) is hereby accepted.
3. The Section will not consider any petition for reinstatement as a professional counselor earlier than one year from the date of this Order.
4. At one year and one day, Respondent may petition for reinstatement, the Section may consider medical or mental health records submitted by the Respondent, as well as the facts and circumstances surrounding the above convictions when determining whether to deny or grant Respondent's petition for reinstatement.
5. This Order is effective on the date of its signing.

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

by: Tammy Scheidegger ex
A Member of the Section

10-23-2017
Date

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 DISCIPLINARY
PROCEEDINGS AGAINST

BRIAN R. MESSMAN, L.P.C.,
RESPONDENT.

:
:
:
:
:

STIPULATION

0005181

Division of Legal Services and Compliance Case No. 16 CPC 025

Respondent Brian R. Messman, L.P.C., and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
- the right to petition for rehearing; and
- all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation. Respondent is represented by Attorney Erika Bierma.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Professional Counselor Section of the Wisconsin Marriage and Family Therapy, Professional Counseling and Social Work Examining Board (Section). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance


or consent of the parties. Respondent waives all rights to any appeal of the Section's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Section, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Section, the parties agree not to contend that the Section has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Section ever assigned as an advisor in this investigation may appear before the Section in open or closed session, without the presence of Respondent or Respondent's attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Section may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Section should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Section adopt this Stipulation, the Section's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.


8. The Division of Legal Services and Compliance joins Respondent in recommending the Section adopt this Stipulation and issue the attached Final Decision and Order.



Brian R. Messman, L.P.C., Respondent
639 Constitution Lane
De Forest, Wisconsin 53532
License no. 4158-125

8/21/17

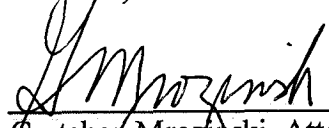
Date



Erika Bierma, Attorney for Respondent
Stafford Rosenbaum, LLP
222 W. Washington Ave., Ste. 900
Madison, WI 53701-1784

8/21/17

Date



Gretchen Mrozinski, Attorney
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

8-22-17

Date