

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE PSYCHOLOGY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
FRANCIS J. CUMMINGS, PH.D., :
RESPONDENT. :

0005532

Division of Legal Services and Compliance Case No. 15 PSY 035

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

Francis J. Cummings, Ph.D.
1427-C Province Terrace
Menasha, WI 54952

Wisconsin Psychology 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 Psychology Examining Board (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, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Francis J. Cummings, Ph.D., DOB June 3, 1958, is licensed in the state of Wisconsin to practice psychology, having license number 1802-57, first issued on October 26, 1993, and current through September 30, 2017. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1427-C Province Terrace, Menasha, Wisconsin 54952.

2. At all times relevant to this proceeding, Respondent was employed as a licensed psychologist at a clinic located in Menasha, Wisconsin.

3. From September 2013 until August 2014, Respondent served as a post-doctoral clinical supervisor for a psychologist (the supervisee).

4. During the supervisory period, Respondent sent multiple emails inviting the supervisee and sometimes the supervisee's girlfriend to social outings at his house, at local bars, and at local restaurants.

5. In June 2014, Respondent sent an email to the supervisee with a link to an advertisement for a sex toy. The email was sent as a joke.

6. When the supervisee applied for licensure by the Wisconsin Psychology Examining Board, Respondent completed a supervisory reference form in which Respondent's comments were overwhelmingly positive. On August 27, 2014, the supervisee received his Wisconsin license and Respondent was no longer his clinical supervisor.

7. On September 8, 2014, after the professional relationship ended, Respondent invited the supervisee for a celebratory dinner and the supervisee declined.

8. The supervisee sought licensure in the state of Oregon. On October 31, 2014, the supervisee asked Respondent to fill out a form for the Oregon Board of Psychologist Examiners (Oregon Board). The form was called "Supervisor Reference Form" (Oregon form) and asked Respondent to document the supervisee's performance while under Respondent's supervision. Respondent did not immediately complete the form but asked to meet with the supervisee in person to discuss certain concerns. The supervisee initially agreed to meet, but a date for that meeting was not set. Respondent told the supervisee he was worried about him, but did not explain why.

9. On January 9, 2015, the supervisee again asked Respondent to complete the Oregon Board's form. Respondent again did not complete the form and insisted on meeting with the supervisee in person to discuss unspecified concerns. The supervisee declined to meet and asked Respondent to fill out the form

10. Respondent ultimately did fill out the Oregon form.

11. On January 19, 2015, Respondent submitted the Oregon form. In it Respondent heavily criticized the supervisee's character, contradicting the information he provided the Wisconsin Psychology Examining Board.

12. Respondent explains that after his role as the supervisee's supervisor ended, and after his submissions to the Wisconsin Psychology Examining Board, Respondent arrived at new insights into the supervisee's character. Respondent felt that when the supervisee declined to meet with him, the supervisee was treating him like a cog in a wheel, rather than a mentor. Respondent felt it important to convey to the supervisee how his conduct impacted others. Respondent became concerned about what he determined was a character flaw that could impact the supervisee's professional practice.

13. Respondent acknowledges that the sharp criticism in his Oregon evaluation of the supervisee's character contrasts with the supervisory reference he provided to the Board. Respondent denies that he provided the negative information to the Oregon Board in retaliation for the supervisee's unwillingness to socialize with him. He does, however, understand how the supervisee might have seen it that way.

14. Respondent acknowledges that the email was inappropriate and sending it may have constituted a violation of professional boundaries.

15. Respondent denies all wrong-doing or any suggestion that he acted maliciously. In resolution of this matter, and to avoid the costs of litigation, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Psychology Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 455.09(1), 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, Francis J. Cummings, Ph.D., engaged in unprofessional conduct as defined by Wis. Admin. Code § Psy 5.01(4).

3. As a result of the above violations, Francis J. Cummings, Ph.D., is subject to discipline pursuant to Wis. Stat. § 455.09(1)(g).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Francis J. Cummings, Ph.D., is REPRIMANDED.

3. The license to practice psychology issued to Francis J. Cummings, Ph.D. (license number 1802-57), is LIMITED as follows:

- a. Within ninety (90) days of the date of this Order, Respondent shall successfully complete twelve (12) hours of remedial education on the topic of professional boundaries offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the courses. The courses shall be taken in person and not online. Courses taken without preapproval shall NOT be used to fulfill this limitation.
- b. Respondent shall submit proof of successful completion of the ordered education in the form of verification from the institution providing the education to the Department Monitor at the address stated below.
- c. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Board or Department, and also may not be used in future attempts to upgrade a credential in Wisconsin.
- d. This limitation shall be removed from Respondent's license and Respondent will be granted a full, unrestricted license after Respondent petitions the Board and has satisfied the Board or its designee that Respondent has successfully completed all of the ordered education.

4. Within ninety (90) days from the date of this Order, Francis J. Cummings, Ph.D., shall pay COSTS of this matter in the amount of \$1,465.00.

5. Request for approval of courses, proof of successful course completion and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

6. In the event that Respondent violates any term of this Order, Respondent's license (no. 1802-57) to practice psychology in the state of Wisconsin may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of the Order. The Board may, in addition and/or in the alternative refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

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

WISCONSIN PSYCHOLOGY EXAMINING BOARD

By: 
A Member of the Board

11-29-2017
Date

STATE OF WISCONSIN
BEFORE THE PSYCHOLOGY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

FRANCIS J. CUMMINGS, PH.D.,
RESPONDENT.

STIPULATION

0005532

Division of Legal Services and Compliance Case No. 15 PSY 035

Respondent Francis J. Cummings, Ph.D., and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

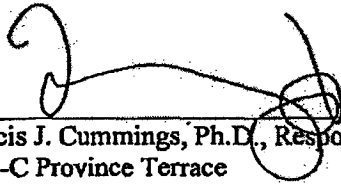
1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.
2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives 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 Mario D. Mendoza.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Psychology Examining Board (Board). 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 Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, 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 Board, the parties agree not to contend that the Board 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 Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

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

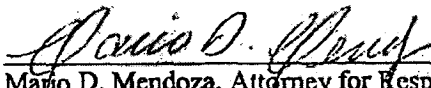
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Francis J. Cummings, Ph.D., Respondent
1427-C Province Terrace
Menasha, WI 54952
License No. 1802-57

3/24/17

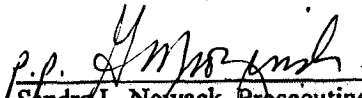
Date



Mario D. Mendoza, Attorney for Respondent
Murphy Desmond S.C.
33 East Main Street, Suite 500
Madison, WI 53703

3/24/17

Date



Sandra L. Nowack, Prosecuting Attorney
State Bar Number 1025643
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190
Tel. (608) 266-8098
sandra.nowack@wisconsin.gov

4-3-17

Date