

**BEFORE THE MINNESOTA
BOARD OF PSYCHOLOGY**

In the Matter of the License of
Nicholas C. Gammello, M.A., L.P.
License Number: LP1437

**STIPULATION AND
CONSENT ORDER**

IT IS HEREBY STIPULATED AND AGREED by Nicholas C. Gammello, M.A., L.P. (“Licensee”), and the Minnesota Board of Psychology (“Board”) as follows:

1. During all times herein, Licensee has been and now is subject to the jurisdiction of the Board from which he holds a license to practice psychology in the State of Minnesota.

FACTS

2. The Board finds the following:
- a. From February 3, 2011, to September 29, 2011, Licensee provided professional therapeutic services to Client # 1 for anxiety and marital issues.
 - b. On July 29, 2011, Licensee spoke with Client # 1 on the phone for almost three hours.
 - c. Between July and September 2011 and between January and August 2012, Licensee and Client # 1 exchanged numerous text messages and phone calls.
 - d. On April 27, 2012, around midnight, Licensee spoke with Client # 1 on the phone for almost three and a half hours. Licensee indicated Client # 1 may have been intoxicated during the conversation and became seductive with him. Licensee told Client # 1 his body was reacting to what she was saying and that “if the circumstances were different and [he] could listen to [his] flesh . . . [he] would love to do those things” but that he could not and it would be inappropriate.

REGULATIONS

3. The Board views Licensee's conduct as described in paragraph 2. above to be in violation of statutes and rules enforced by the Board. Licensee agrees that the conduct cited above constitutes a violation of Minn. Stat. § 148.941, subd. 2(a)(1) (violation of Board statutes and rules); Minn. Stat. § 148.941, subd. 2(a)(3) and Minn. R. 7200.5700 (unprofessional conduct); and Minn. R. 7200.4905, subps. 5 and 6 (sexual behavior with a client), and constitutes a reasonable basis in law and fact to justify the disciplinary action provided for in the order.

REMEDY

4. Upon this stipulation and without any further notice or proceedings, Licensee's license to practice psychology in the State of Minnesota is **SUSPENDED**. During the period of suspension, Licensee shall not engage in the practice of psychology in Minnesota. Licensee shall immediately cease to advertise or otherwise represent himself in any manner to be a licensee in this State.

5. Licensee's license shall be administratively reinstated following satisfactory completion of an **INDIVIDUALIZED PROFESSIONAL BOUNDARIES COURSE**. The Committee will provide Licensee with a list of pre-approved courses and/or course instructors for purposes of satisfying this requirement. If the Committee and Licensee concur that there is sufficient reason for Licensee not to utilize the pre-approved options, Licensee shall submit to the Committee for approval a syllabus that includes goals, objectives, assignments, projects, methods, and frequency of evaluation, etc., for a similar individualized professional boundaries training course as well as the course instructor's *curriculum vitae* for its approval of the instructor. All fees for the course shall be paid by Licensee. To show satisfactory completion of the Course, Licensee shall submit the following:

A. ***Report on Boundaries course from Licensee.*** Licensee shall submit a written report to the Committee which provides and/or addresses the following:

a) The dates Licensee began and completed the Course;

b) A brief statement of the topics covered in the Course;

c) A detailed discussion of what Licensee has learned from the Course, including Licensee's comprehension and knowledge of boundary issues, as well as various ethical issues encountered in practice, and how this course will affect his practice in the future;

d) A detailed discussion of the violations that occurred, including:

1) How Licensee came to violate professional boundaries;

2) The manner in which Licensee violated these boundaries;

3) The specific harm to each individual that resulted, and the potential harm to other individuals that could have resulted from Licensee's conduct;

4) How Licensee now believes the violations could have been averted;

5) A detailed discussion of the specific ways this Course may help impact Licensee's practice;

6) Licensee's reasons for believing he is capable of conducting himself in a fit, competent, and ethical manner in the practice of psychology; and

7) Any other information Licensee believes would assist the Board in its ultimate review of this matter.

B. ***Report on Boundaries Course From Instructor.*** Licensee shall cause to be submitted to the Committee a report from the instructor of the Course. This report shall address:

- a) The extent of Licensee's participation in the Course; and
- b) The instructor's assessment of Licensee's knowledge obtained from the Course, comprehension of the material issues, and opinion as to Licensee's ethical fitness to engage in the practice of psychology.

C. ***Additional Information.*** Licensee shall provide any additional relevant information reasonably requested by the Board.

6. The reinstatement of Licensee's license is effective upon written notification to Licensee by the Board that his license has been reinstated.

7. If Licensee fails to comply with or violates this Stipulation and Consent Order, the Committee may, in its discretion, seek additional discipline either by initiating a contested case proceeding pursuant to Minnesota Statutes chapter 14 or by bringing the matter directly to the Board pursuant to the following procedure:

- a. The Committee shall schedule a hearing before the Board. At least 20 days before the hearing, the Committee shall mail Licensee a notice of the violation(s) alleged by the Committee. In addition, the notice shall designate the time and place of the hearing. Within ten days after the notice is mailed, Licensee shall submit a written response to the allegations. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

b. The Committee, in its discretion, may schedule a conference with Licensee prior to the hearing before the Board to discuss the allegations and to attempt to resolve the allegations through agreement.

c. Prior to the hearing before the Board, the Committee and Licensee may submit affidavits and written argument in support of their positions. At the hearing, the Committee and Licensee may present oral argument. Argument shall not refer to matters outside the record. The evidentiary record shall be limited to the affidavits submitted prior to the hearing and this Stipulation and Consent Order. The Committee shall have the burden of proving by a preponderance of the evidence that a violation has occurred. If Licensee has failed to submit a timely response to the allegations, Licensee may not contest the allegations, but may present argument concerning the appropriateness of additional discipline. Licensee waives a hearing before an administrative law judge, discovery, cross-examination of adverse witnesses, and other procedures governing hearings pursuant to Minnesota Statutes chapter 14.

d. Licensee's correction of a violation before the conference, hearing, or meeting of the Board may be taken into account by the Board but shall not limit the Board's authority to impose discipline for the violation. A decision by the Committee not to seek discipline when it first learns of a violation shall not waive the Committee's right to later seek discipline for that violation, either alone or in combination with other violations, at any time while Licensee's license is in a suspended status.

e. Following the hearing, the Board will deliberate confidentially. If the allegations are not proved, the Board shall dismiss the allegations. If a violation is proved, the Board may impose additional discipline, including additional conditions or limitations on

Licensee's practice, an additional period of suspension, additional conditions of reinstatement, or revocation of Licensee's license.

8. This stipulation shall not in any way limit or affect the authority of the Board to temporarily suspend Licensee's license under Minn. Stat. § 148.941, subd. 3, or to initiate contested case proceedings against Licensee on the basis of any act, conduct, or omission of Licensee justifying disciplinary action occurring before or after the date of this Stipulation and Consent Order which is not related to the facts, circumstances or requirements referenced herein.

9. In the event the Board at its discretion does not approve this settlement or a lesser remedy than indicated in this settlement, then, and in that event, this stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced by either party to this stipulation, except that Licensee agrees that should the Board reject this stipulation and this case proceeds to hearing, Licensee will assert no claim that the Board was prejudiced by its review and discussion of this stipulation or of any records relating to this matter.

10. Any appropriate court may, upon application of the Board, enter its decree enforcing the order of the Board.

11. Licensee has been advised by Board representatives that he may choose to be represented by legal counsel in this matter. Licensee is represented by Peter G. Van Bergen, Cousineau McGuire. The Committee is represented by Hans A. Anderson, Assistant Attorney General.

12. Licensee waives all formal hearings on this matter and all other procedures before the Board to which Licensee may be entitled under the Minnesota or United States constitutions, statutes, or rules and agrees that the order to be entered pursuant to the stipulation shall be the final order herein.

13. Licensee hereby knowingly and voluntarily waives any and all claims against the Board, the Minnesota Attorney General, the State of Minnesota and their agents, employees and representatives which may otherwise be available to Licensee under the Americans With Disabilities Act or the Minnesota Human Rights Act relative to the action taken or authorized against Licensee's license to practice psychology under this stipulation.

14. Licensee hereby acknowledges that he has read, understands, and agrees to this stipulation and has freely and voluntarily signed the stipulation without threat or promise by the Board or any of its members, employees, or agents. When signing the stipulation, Licensee acknowledges he is fully aware the stipulation is not binding unless and until it is approved by the Board. The Board may either approve the Stipulation and Consent Order as proposed, approve the Stipulation and Consent Order subject to specified change, or reject it. If the changes are acceptable to Licensee, the stipulation will then take effect and the order as modified will be issued. If the changes are unacceptable to Licensee or the Board rejects the stipulation, it will be of no effect except as specified herein.

15. This Stipulation and Consent Order constitutes a disciplinary action against Licensee.

16. This Stipulation and Consent Order is a public document and will be sent to all appropriate data banks and other entities consistent with Board policy.

17. This stipulation contains the entire agreement between the parties there being no other agreement of any kind, verbal or otherwise, which varies this stipulation.

LICENSEE

COMPLAINT RESOLUTION COMMITTEE

Nicholas C Gammello
NICHOLAS C. GAMMELLO, M.A., L.P.

Dated: 01/14/14

Jeffrey Leichter
JEFFREY LEICHTER, PH.D., L.P.
Committee Chair

Dated: 1/24/14

Scott Fischer
SCOTT FISCHER, PH.D., L.P.
Committee Member

Dated: 1-24-14

Ben Dollins
BEN DOLLINS, J.D.
Committee Member

Dated: 1/24/14

ORDER

Upon consideration of this stipulation and all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the license of Licensee is SUSPENDED and that all other terms of this stipulation are adopted and implemented by the Board this 24th day of

January 2014

MINNESOTA BOARD OF PSYCHOLOGY


ANGELINA M. BARNES
Executive Director