BEFORE THE WEST VIRGINIA BOARD OF EXAMINERS OF PSYCHOLOGISTS

WEST VIRIGNIA BOARD OF EXAMINERS OF PSYCHOLOGISTS,

Complainant,

v. **Case No.: 2009-6**

Pamela Jensen, M.A.
WV Psychology License No. 941,

Respondent.

CONSENT AGREEMENT AND ORDER

After due investigation of a written complaint, the West Virginia Board of Examiners of Psychologists ("Board") determined that there was probable cause to believe that Pamela Jensen, M.A. ("Ms. Jensen") has exhibited conduct in the practice of psychology in violation of the provisions of W. Va. Code § 30-21-1 *et seq.* and the Rules of the Board, at 17 C.S.R. § 1-1 *et seq.* The Respondent was provided with written notice of the allegations against her pursuant to the Rules of the Board and the laws of the State.

Now, in lieu of a hearing, the parties have reached an agreement for the resolution of this case matter and the parties agree to the entry of the following Order in disposition of this matter.

FINDINGS OF FACT

The Board adopts the following findings in this matter:

1. That Ms. Jensen is a licensee of the Board, License No. 941, and is subject to the license requirements of the Board.

2. That Respondent was, at all times material hereto, employed as a psychologist by PsyCon, PLLC.

3. That on May 7, 2009 the Board received a Complaint against the Respondent.

4. That the respondent submitted a Demonstrable Competency Form (DCF) to the Board for review at the December 1, 2006 continued oral examination and the Respondent and her supervisor, Donald Swick, MA signed said DCF.

5. That on this DCF the Respondent didn't declare competency in the Forensic Civil practice domain, nor did she declare competency in any of the forensic psychology domains, including criminal, commitment, and parental suitability.

6. That On December 1, 2006 the Respondent passed her continued oral examination and she was informed in writing that, "Your license limits you to providing psychotherapy and crisis intervention services to treatment populations designated on the Demonstrable Competency Form and conducting DDS and Rehabilitation Evaluations."

7. That the Board also informed the Respondent in writing that, "If you wish to expand your practice beyond these limitations and/or competency areas not presented at the examination, please inform the Board. The Board will consider your request and

require you to meet with it to present evidence that you are competent to practice psychology in other settings or in other areas of psychology"

8. That Sara Byrd, Esq., who is an attorney employed by Mountain State Justice, Inc., contracted with the Respondent to conduct a psychological evaluation to determine the ability of Ms. Byrd's client to make informed financial decisions.

9. That the Respondent conducted this civil forensic psychological evaluation on November 5 and November 13, 2008.

10. That the Respondent made the following diagnoses on the basis of psychological test results: Major Depressive Disorder, Recurrent, Moderate; Expressive Language Disorder; (and) Mild Mental Retardation."

11. That the Respondent concluded that, "Based on the results of this evaluation, it is the opinion of this examiner that Mr. XXX is unable to make informed financial decisions due to deficient cognitive functioning and impairment in communication skills."

12. That the Respondent knew that the evaluation report was intended to be used in civil legal proceedings.

13. That the Respondent knew or should have known it was very likely that she would be called upon to testify in civil legal proceedings about the results of the evaluation.

14. That Ms. Jensen appeared at a March 9, 2009 legal mediation meeting for the purpose of providing expert psychological opinion about the client's ability to make informed decisions.

15. That the evaluation was neither a DDS (Social Security Disability Determination Services) nor a Rehabilitation psychological evaluation.

16. That the Respondent practiced outside her scope of expertise by conducting the evaluation which:

a. Was not a DDS or Rehabilitation evaluation.

b. Was a forensic civil psychological evaluation when she has never been approved as competent to conduct such an evaluation.

17. That the respondent made no attempts to expand her scope of practice by following the directives in her December 19, 2006 licensure letter.

18. That the Respondent reported that she administered, interpreted, and reported results of the MMPI-2 on multiple occasions.

19. That the Respondent didn't declare competency to administer, interpret, and report results of the MMPI-2 nor did she petition the Board to add this to her competency domains.

20. That the Board adopted as its code of ethics the American Psychological Association, Ethical Principles of Psychologists and Code of Conduct (Code of Ethics).

21. That the Board conducted an investigation, during which time; the Board's Ethics Committee reviewed relevant information and sought opinions regarding this matter.

22. That the Board's Ethic's Committee upon completion of its review did make a recommendation to the Board for a finding of probable cause.

23. That by vote at its April 23, 2010 Board meeting, the Board determined that Ms. Jensen violated section 2.01(a) of the Code of Ethics along with W.Va. Code § 30-21-10 and 17 C.S.R. § 3-7.1.

CONCLUSIONS OF LAW

1. That the Board is a state entity created by W. Va. Code § 30-21-1 *et seq.* and is a regulatory board created for the purpose of regulating the practice of psychology. W. Va. Code §30-21-1 *et seq.*

2. That in order to carry out its regulatory duties, the Board is empowered to suspend, revoke, or otherwise discipline an individual's psychology and/or school psychology license because of the authority granted to it by W. Va. Code § 30-21-10.

3. That the Board has adopted the American Psychological Association, Ethical Principles of Psychologists and Code of Conduct and that failure of a licensed psychologist to comply with that document is a violation of 17 C.S.R. § 3 – 6 and may be grounds for disciplinary action by the Board pursuant to W. Va. Code § 30-21-10 and 17 C.S.R. § 4-4.

4. That a psychologist shall act in accordance with this Code of Ethics. 17 C.S.R. §§ 3-6 and 3-7.

5. That the Board finds probable cause that Respondent violated Section 2.01(a) of the Code of Ethics in the performance and completion of the Evaluation. Section 2.01(a) specifically requires that, "Psychologists provide services, teach, and conduct research with populations and in areas only within the boundaries of their competence, based on their education, training, supervised experience, consultation, study, or professional experience."

CONSENT OF LICENSEE

I, Pamela Jensen, M.A., by affixing my signature hereto, agrees and acknowledges the following:

1. I have had the opportunity to consult with counsel and execute this Consent Order voluntarily, freely, without compulsion or duress and mindful that it has legal consequences.

2. No person or entity has made any promise or given any inducement whatsoever to encourage me to make this settlement other than as set forth herein.

3. I acknowledge that I am aware that I may pursue this matter through appropriate administrative and/or court proceedings. Moreover, I am aware of my legal rights regarding this matter, but I intelligently, knowingly and voluntarily waive such rights.

ORDER

On the basis of the foregoing Findings of Fact and Conclusions of Law of the Board, and on the basis of the consent of Ms. Jensen, the West Virginia Board of Examiners of Psychologists hereby **ORDERS** and **DECREES** that:

1. The Respondent is hereby REPRIMANDED for her actions in the instant matter as outlined in the above Findings of Facts. The Board FINDS that the Respondent violated 2.01(a) of the Code of Ethics.

2. The Respondent is hereby ORDERED to:

a. Practice psychology within her scope of expertise as defined in the December 19, 2006 licensure letter.

b. Not practice forensic psychology.

c. Follow the procedures outlined in the December 19, 2006 licensure letter, if she decides to attempt to expand her scope of practice.

d. Cease administering the MMPI-2, interpreting its results, and reporting such results until she petitions the Board to do so.

3. Respondent shall reimburse the Board a total of $1,100 for all of the administrative and legal expenses incurred by the Board in the investigation and disposition of the Complaint. Said amount shall be paid within 30 days of the entry of this **ORDER**.

4. If the Respondent fails to comply with the terms of this Order or fails to act in accordance with the Board's statutory and /or regulatory acts, and the Board finds probable cause for these violations, then the Respondent's license to practice psychology in the State of West Virginia shall be **SUSPENDED**, effective immediately, with a hearing scheduled as soon as possible.

5. The Board is bound by agreement and by law to report the results of all disciplinary actions, including the instant matter, for posting.

6. This documents is a public record as defined by W. Va. Code §29B-1-2(4).

7. This *Consent Agreement and Order* constitutes the entire agreement between the parties.

The foregoing Order was entered this 21st day of October 2010.

WEST VIRGINIA BOARD OF EXAMINERS OF PSYCHOLOGISTS

By: Tina M. Yost, Ed.D.
Tina Yost, Ed.D
President

Entered: _____
Date

Agreed to by: Pamela R. Jensen, MA/ now Pamela R. Miller, MA
Pamela Jensen, M.A.

Sept 22, 2010
Date

Sworn and subscribed before me this 22nd day of September, ~~2009~~ 2010.

My Commission expires: April 18, 2015

Alice Y. Moles
Notary Public

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
ALICE Y. MOLES
101 ROCKY STEP ROAD
SCOTT DEPOT, WV 25560
My commission expires April 18, 2015