

**Before the West Virginia Board of Examiners of Psychologists**

**W. Va. Board of Examiners of Psychologists,**

**Complainant,**

**v.**

**Ethical Inquiry No.: 2017-04**

**Robert J. Klein, Ed.D.  
(License # 687)**

**Respondent.**

**Consent Agreement and Order**

Pursuant to W. Va. Code § 30-21-1 *et seq.*, the West Virginia Board of Examiners of Psychologists (“Board”) commenced an investigation involving Robert J. Klein, Ed.D, and possible unprofessional and unethical conduct in violation of applicable statutes, rules, or ethical principles including, but not limited to, W. Va. Code R. § 17-4-4 and W. Va. Code R. § 17-3-6. Respondent was provided with written notice of the allegations against him pursuant to the rules of the Board and the laws of this State.

The parties have reached an agreement as to the appropriate disposition of this matter, with consideration to necessary safeguards for protection of the public, and do hereby agree to the following Findings of Fact, Conclusions of Law, and Order.

WHEREAS, the Board agrees and acknowledges this agreement is a compromise of claims disputed by Respondent.

WHEREAS, the parties have reached an understanding concerning the proper disposition of the matter in controversy, and do hereby agree to the following:

### Findings of Fact

1. The Board is a State entity created by W. Va. Code § 30-21-1 *et seq.*, and is empowered to regulate the practice of psychology in this State.

2. Respondent, at all times relevant to this investigation, was a licensee of the Board, possessing License No. 687, and is subject to the jurisdiction and authority of the Board and applicable licensing requirements.

3. The Board conducted an investigation regarding a joint written complaint it received from two former clients of Respondent concerning behavior that may have crossed professional boundaries between psychologist and client.

4. The alleged behavior took place during or around the time Respondent was providing therapy or counseling services to these clients.

5. Respondent admits that during the time he was providing therapy or counseling services to these clients, who were in a relationship with each other at the time, he gave one or the other money, food, gifts, clothes, furniture, and household equipment. Respondent admits that one of the clients stayed overnight at his home.

6. The Board alleges that its review of documents and records in this matter show Respondent may have engaged in conduct, practices, or acts constituting a willful departure from accepted professional standards and may have violated applicable codes of conduct.

7. Respondent avers and maintains that, at all times at issue herein, and at all times in his practice as a licensee before the Board, he has followed applicable laws and regulations and has behaved reasonably and within the accepted standards of the profession, including, but not limited to, the standards set forth in the *American Psychological Association's Ethical Principles of Psychologists and Code of Conduct*.

8. The Board and Respondent desire to resolve this disputed claim through the use of this negotiated Consent Decree and Order as follows:

**Conclusions of Law**

1. The Board has jurisdiction to take disciplinary action against Respondent.
2. The Board is empowered to suspend, revoke, or otherwise discipline an individual's psychology license. See W. Va. Code § 30-21-10.
3. The Board may take disciplinary action against a psychologist, up to and including revocation of license, upon satisfactory proof that the psychologist, in his or her professional capacity, engaged in conduct, practices or acts constituting professional negligence or a willful departure from accepted standards of professional conduct in violation of W. Va. Code § 30-21-1 *et seq.* or the rules of the Board.
4. The Board has adopted the *American Psychological Association's Ethical Principles of Psychologists and Code of Conduct* ("Code of Conduct"). The failure of a licensed psychologist to comply with the Code of Conduct constitutes a violation of W. Va. Code R. § 17-3-6 and may be grounds for disciplinary action by the Board under W. Va. Code § 30-21-10 and W. Va. Code R. § 17-4-4.
5. According to the Code of Conduct at Standard 3.04, *Avoiding Harm*, psychologists must take reasonable steps to avoid harming their clients/patients, students, supervisees, research participants, organizational clients, and others with whom they work, and to minimize harm where it is foreseeable and unavoidable.
6. Respondent breached Standard 3.04 of the Code of Conduct by failing to avoid harm by having a personal relationship with a client that crossed professional boundaries between psychologists and client, when he provided a client with money, clothes, and other

items or gifts, and when he allowed the client to stay overnight at his house. Respondent did not take reasonable action to avoid causing harm.

7. According to the Code of Conduct at Standard 3.05(a), *Multiple Relationships*,

(a) A multiple relationship can occur when a psychologist is in a professional role with a person and (1) at the same time is in another role with the same person, (2) at the same time is in a relationship with a person closely associated with or related to the person with whom the psychologist has the professional relationship, or (3) promises to enter into another relationship in the future with the person or a person closely associated with or related to the person.

A psychologist refrains from entering into a multiple relationship if this multiple relationship could reasonably be expected to impair the psychologist's objectivity, competence, or effectiveness in performing his or her functions as a psychologist, or otherwise risks exploitation or harm to the person with whom the professional relationship exists.

Multiple relationships that would not reasonably be expected to cause impairment or risk exploitation or harm are not unethical.

8. Respondent breached Standard 3.05(a) of the Code of Conduct by carrying out a multiple relationship with the complainants that risked exploiting or bringing harm to them individually or as couple.

9. Based on the allegations of unprofessional or unethical conduct set out above in the Findings of Fact, Respondent failed to comply with applicable law and/or regulation concerning licensed psychologists in West Virginia, which are grounds for disciplinary action pursuant to W. Va. Code § 30-1-8, W. Va. Code § 30-21-10, and applicable Board rules and code of conduct.

### Consent of Licensee

The Respondent, by affixing his signature hereto, acknowledges the following.

1. Respondent has been given the opportunity to consult with legal counsel and executes this negotiated Consent Agreement and Order voluntarily, freely, without compulsion or duress, and is mindful that it has legal consequences.

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

3. Respondent acknowledges that he is aware he may pursue this matter through appropriate administrative and/or court proceedings, and is aware of his legal rights regarding this matter, but intelligently and voluntarily waives such rights.

4. Respondent expressly acknowledges that the entire agreement is contained in this Consent Agreement and Order and no representations, promises, or inducements have been made by or to Respondent other than as appear in this Consent Agreement and Order.

5. Respondent acknowledges that this Consent Agreement and Order is a public document available for inspection by the public in accordance with the provisions set forth in the West Virginia Freedom of Information Act (W. Va. Code § 29B-1 *et seq.*), and may be reported to other governmental agencies, professional boards, or other organizations.

6. Respondent waives any defenses including, but not limited to, laches, statute of limitations, and estoppel that he may have otherwise claimed as a condition of this Consent Agreement and Order.

7. In lieu of having a hearing, Respondent seeks to voluntarily surrender his license as he has decided to retire from practice.

8. Respondent consents to the entry of the following Order affecting his conduct as a licensed psychologist in the State of West Virginia.

**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 Respondent, the West Virginia Board of Examiners of Psychologists hereby **ORDERS** the following:

1. Beginning on the date of execution of this Consent Agreement and Order, Respondent (License # 6877) shall voluntarily surrender his license. Respondent agrees not seek reinstatement of his license.

2. The Respondent shall reimburse the Board administrative and legal expenses incurred by the Board in the investigation and disposition of this case in the amount of \$3,000. This amount shall be paid in full within six months of the execution and entry of this Consent Agreement and Order.

3. Respondent shall at all times cooperate with the Board, and any of its agents or employees, in the monitoring or investigation of Respondent's compliance with the terms and conditions of this Consent Agreement and Order.

4. Respondent's failure to comply with the terms and conditions of this Consent Agreement and Order hereby imposed shall be deemed a violation of this Consent Agreement and Order, and should Respondent violate any of the terms of this Consent Agreement and Order, the Board may take immediate action against Respondent's license. In the event Respondent contests any such allegations of violation of the Consent Agreement and Order which result in the suspension of Respondent's license, Respondent may request a hearing concerning the status of his license. Any such hearing shall be scheduled and conducted in accordance with the provisions of West Virginia Code § 30-1-8 and § 30-21-1 *et seq.*

Entered this 25<sup>th</sup> of September, 2018.

W. Va. Board of Examiners of Psychologists

Jeffrey H. (PhD)  
President

Inspected and Agreed to by:

Robert Klein, Ed.D  
Respondent

9/20/18  
Date

Daniel C. Cooper, Esq.  
Legal Counsel for Dr. Klein

9/21/18  
Date