

BEFORE THE STATE BOARD OF PSYCHOLOGIST EXAMINERS

STATE OF COLORADO

Case No. PY 2015-0002

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF DISCIPLINARY PROCEEDINGS REGARDING THE LICENSE TO
PRACTICE PSYCHOLOGY IN THE STATE OF COLORADO OF BRETT EDOUARD
VALETTE, PSYCHOLOGIST, PSY. NO. 1548,

Respondent.

IT IS HEREBY STIPULATED by and between the State Board of Psychologist
Examiners ("Board") and, Brett Edouard Valette, Psychologist, ("Respondent") as follows:

1. The Board has jurisdiction over the person of Respondent and the subject matter of this Stipulation and Final Agency Order ("Order").
2. Respondent was licensed to practice as a psychologist in the State of Colorado at all times relevant herein.
3. It is the intent of the parties and the purpose of this Order to provide for a settlement of all matters arising out of case number PY 2015-0002 without the necessity of holding a formal hearing. This Order is a full and final resolution of case number PY 2015-0002. This Order does not resolve any other cases, complaints, or matters, known or unknown to the Board or Respondent, as of the effective date of this Order.
4. Respondent admits the following:
 - a. Respondent was granted a license to practice psychology in the State of Colorado on July 19, 1991. He was assigned license number PSY 1548.
 - b. At all times relevant to the events described herein, Respondent has been a licensed psychologist.
 - c. On or around August 20, 2007, Respondent entered into a contract with the Colorado Department of Human Services ("CDHS"), Division of Disability Determination Services ("DDS"), as a Consultative Examination Provider. In this capacity, Respondent provided psychological testing and examinations on behalf of CDHS.
 - d. In August 2012, the CDHS audit division initiated an audit of Respondent and his practice related to the contract with DDS.

e. The Board received the findings alleged in the CDHS audit report and initiated an investigation into the allegations against Respondent.

f. During the length of Respondent's contract with DDS, the following "technical use" psychological tests were performed in Respondent's office:

i. The fourth version of the Wechsler Adult Intelligence Scale ("WAIS IV"). The WAIS IV test is designed to measure intelligence in adults and older adolescents. The WAIS IV is categorized as a "technical use" test under section 12-43-228(1)(b), C.R.S.

ii. The fourth version of the Wechsler Memory Scale ("WMS IV"). The WMS IV test is designed to measure memory function and can help to assess global cognitive functioning in people with suspected memory deficits. The WMS IV is categorized as a "technical use" test under section 12-43-228(1)(b), C.R.S.

iii. The fourth version of the Wechsler Intelligence Scale for Children ("WISC IV"). The WISC IV test is designed to measure intelligence in children ages six to sixteen. The WISC IV test is categorized as a "technical use" test under section 12-43-228(1)(b), C.R.S.

iv. The third version of the Bayley Scales of Infant and Toddler Development ("Bayley III"). The Bayley III test is designed to assess the motor, language, and cognitive development of infants and toddlers, ages zero to three years. The Bayley III test is categorized as a "technical use" test under section 12-43-228(1)(b), C.R.S.

v. The fourth version of the Wechsler Preschool and Primary Scale of Intelligence ("WPPSI IV"). The WPPSI IV test is designed to measure intelligence in children ages two years six months to seven years seven months. The WPPSI IV is categorized as a "technical use" test under section 12-43-228(1)(b), C.R.S.

g. Beginning in at least 2002, and continuing through the end of Respondent's contract with DDS in December 2012, Respondent employed testing technicians as part of his psychology practice. From at least 2002 through December 2012, it was the practice of Respondent to use testing technicians to administer and score the above-mentioned "technical use" psychology tests under his supervision. Some of these technicians did not possess a master's degree or otherwise possess the educational qualifications set forth in section 12-43-228(b), C.R.S. However, all of Respondent's employed testing technicians were fully trained and supervised by Respondent according to the American Psychological Association guidelines on the use of testing technicians.

h. Respondent, without intent to violate any provision of the Mental Health Act, interpreted section 12-43-228, C.R.S. as applying only to the independent practice of administering psychology tests. Therefore, Respondent, relying on section 12-43-305(1)(b), C.R.S., and section 12-43-303(2)(a) and (b), C.R.S., believed he could utilize

testing technicians who did not independently meet the requirements of section 12-43-228, C.R.S., as long as they were only administering and scoring tests under his supervision and did not interpret any test results.

i. The Board does not agree with Respondent's interpretation of section 12-43-228, C.R.S.

j. Respondent received formal notice of hearing and charges and proceeded before the Office of Administrative Courts, obtaining dismissal of his alleged violation of section 12-43-228, C.R.S., by the presiding administrative law judge. However, the Board reversed the dismissal and remanded the case for formal disciplinary hearing.

5. The Board further finds that one or more testing technician employed by Respondent was licensed, registered, or certified under the Act, but did not possess a master's degree or otherwise hold the educational requirements to administer "technical use" psychological tests pursuant to § 12-43-228, C.R.S.

6. By virtue of the facts admitted in paragraph 4 above and the Board's finding in paragraph 5 above, the Board finds that Respondent violated § 12-43-222(1)(b) and § 12-43-228(1)(b) C.R.S.

7. By virtue of the admissions in paragraph 4 and findings in paragraphs 5 and 6 above, Respondent is subject to the following disciplinary sanction(s) that the Board believes is necessary to protect the public health, safety, and welfare.

ADMONISHMENT

8. On the basis of the findings set forth in paragraphs 4-6, the Board hereby admonishes Respondent for employing a licensed testing technician who did not possess the minimum professional preparation standards in violation of § 12-43-222(1) and § 12-43-228(1)(b), C.R.S. This Order is effective as a Letter of Admonition, as set forth in § 12-43-224(3)(d), C.R.S.

TERMS AND CONDITIONS

9. Respondent will strictly observe the prohibitions set forth in § 12-43-222(1), C.R.S., of the Mental Health Practice Act, and will ensure that he practices in accordance with the generally accepted standards of practice.

10. All expenses incurred or associated with continuing education or any other requirement necessary to fulfill the terms of this Order shall be the sole responsibility of Respondent and not the Board.

11. Respondent is fully aware of and understands the right to receive a formal notice of hearing and charges and to have a formal disciplinary hearing, pursuant to § 12-43-224, C.R.S., and hereby waives those rights. Respondent hereby waives his right to proceed to formal

disciplinary hearing on remand. Further, Respondent also acknowledges that this waiver constitutes a waiver of all rights to appeal in this matter.

12. This Order is entered into by Respondent voluntarily and without coercion, after an opportunity to consult with counsel and with full understanding of the legal consequences of this Order and the right to a formal hearing on all matters herein.

13. The Board and Respondent agree this Order represents a compromise of the claims against Respondent by the Board, subject to C.R.E. 408, and may not be used in any manner, including as evidence in any other action against Respondent, with the exception of any proceedings per paragraphs 15 and 19 below.

14. The Order entered pursuant to this Stipulation and Final Agency Order shall constitute a Board Order for purposes of §12-43-222, C.R.S., and shall have the same force and effect as an order entered after a formal disciplinary hearing pursuant to §12-43-224, C.R.S.

15. Respondent acknowledges and agrees that any violation of this Order shall constitute a violation of a lawful Board Order and be grounds for further proceedings pursuant to the Mental Health Practice Act and, if proven, may constitute a basis for further disciplinary action. The pendency of any disciplinary action shall not affect the obligation of Respondent to comply with the terms of this Order, and this Order shall remain operative and in full force and effect.

16. Respondent shall obey all municipal, state, and federal laws while this Order is in effect.

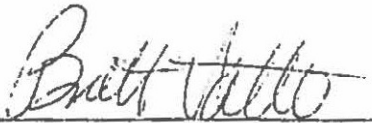
17. This Order constitutes the entire agreement between Respondent and the Board. There are no other promises expressed or implied. In the event that any provision of this Order is deemed unenforceable by a court of competent jurisdiction, such provision shall be severed, and the remainder of this Order shall be given full force and effect.

18. This Order shall become effective when accepted and signed on behalf of the Board.

19. This Order shall be admissible as evidence at any hearing held before the Board.

20. This Order shall be a public record in the custody of the Board.

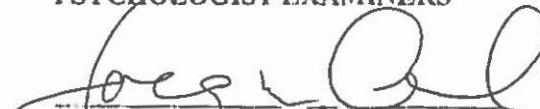
RESPONDENT



Brett Edouard Valette
PSY License No. 1548

Dated: 3/6/17

**COLORADO STATE BOARD OF
PSYCHOLOGIST EXAMINERS**

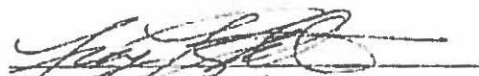


Jacqueline Arcelin
Director of Strategic Operations and Program
Development

Effective Date: This 13th day of
March, 2017.

APPROVED AS TO FORM:

FOR RESPONDENT



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