

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

vs.

CASE NO.: 96-03982

GUSTAVO ALBERTO FONTE,

Respondent.

AMENDED ADMINISTRATIVE COMPLAINT

Petitioner, DEPARTMENT OF HEALTH, hereinafter referred to as "Petitioner," files this Administrative Complaint before the Board of Psychology against GUSTAVO ALBERTO FONTE, hereinafter referred to as "Respondent," and alleges:

1. Effective July 1, 1997, Petitioner is the state agency charged with regulating the practice of Psychology pursuant to Section 20.43, Florida Statutes (Supp. 1996); Chapter 455, Florida Statutes; and Chapter 490, Florida Statutes.
2. Pursuant to the authority of Section 20.43(3)(f), Florida Statutes (Supp. 1996), the Petitioner has contracted with the Agency for Health Care Administration to provide consumer complaint, investigative, and prosecutorial services required by the Division of Medical Quality Assurance, councils, or boards, as appropriate, including the issuance of emergency orders of suspension or restriction.
3. Respondent is, and has been at all times material hereto, a licensed Psychologist in the state of Florida, having been issued license number PY 0005001.

4. Respondent's last known address is 7801 Coral Way #102, Miami, Florida 33155.
5. On or about November 24, 1994, S.E. presented to Respondent for treatment for depression.
6. Respondent utilized the Co-dependent Relationship Questionnaire and the Millon Clinical Multiaxial Inventory (MCMI) tests.
7. S.E. was diagnosed with adjustment disorder with mixed emotions.
8. Subsequently, Respondent suggested to S.E. that Respondent interview S.E.'s wife, I.V.E., to evaluate her position on separation and verify S.E.'s complaints.
9. On or about December 23, 1994, I.V.E. presented to the Respondent.
10. I.V.E. was diagnosed with depression.
11. I.V.E. was given the Sentence Completion and Co-Dependent Relationship Questionnaire and MCMI tests.
12. Sometime thereafter, Respondent began seeing S.E. and I.V.E. for individual therapy.
13. Respondent failed to include adequate data in the treatment records to support the diagnosis that Respondent gave to S.E. and I.V.E. either through interview information or test data.
14. In addition, Respondent failed to include adequate financial data in the records to support the diagnosis he gave to the parties.
15. Based on the foregoing, the Respondent's license to practice Psychology in the State of Florida is subject to discipline pursuant to Section 490.009(2)(v), Florida Statutes, by violating Rule 64B19-19.0025, Florida Administrative Code, which states

Psychologists' records must meet minimum requirements for chronicling and documenting the services performed by the psychologist, documenting informed consent and recording financial transactions...

WHEREFORE, Petitioner respectfully requests the Board of Psychology enter an Order imposing one or more of the following penalties: suspension of license, imposition of an administrative fine not to exceed \$1,000 for each offense, issuance of a reprimand, placement of the Respondent on probation, and/or any other relief that the Board deems appropriate.

SIGNED this 17 day of December, 1998.

Douglas M. Cook
Director



By: Nancy M. Snukowski
Chief Attorney
On Behalf of the Agency for
Health Care Administration

COUNSEL FOR AGENCY:

Susan Branson
Staff Attorney
Florida Bar Number 0648809
Agency for Health Care Administration
General Counsel's Office - MQA
Allied Health
P.O. Box 14229
Tallahassee, FL 32317 - 4229
(850) 487-9694

SB/kmg/gs

PCP: Dr. Ana Rivas-Vasquez
Ms. Juliet T. Lewis

PCP Date: November 25, 1997

FILED

DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK Stephanie O. Dier

DATE 9-22-98

STATE OF FLORIDA
BOARD OF PSYCHOLOGY

DEPARTMENT OF HEALTH

Petitioner,

vs.

CASE NO. 96-03982

GUSTAVO ALBERTO FONTE

Respondent.

COUNTER-STIPULATION

THIS MATTER came before the Board of Psychology (Board) at a duly-noticed public meeting on July 9, 1999, in Palm Beach, Florida, for consideration of a Stipulation agreement entered into between Department of Health and Respondent. Respondent was not present. Upon consideration of the Stipulation, the supporting documentation, and being otherwise advised in the premises, the Board rejected the Stipulation. The Board formulated a Counter-Stipulation for Petitioner and Respondent's consideration. If agreed to by the parties, the Board may consider this Counter-Stipulation during its meeting on September 3, 1999, in Pensacola, Florida.

Contingent upon Petitioner's acceptance and Respondent's notarized acceptance of this Counter-Stipulation, the Board will prepare a Final Order incorporating the terms herein for filing with the Clerk of the Department of Health. Pursuant to section 120.57(4), Florida Statutes, such Final Order will dispose of the Amended Administrative Complaint, attached as Exhibit A, in lieu of any other administrative proceedings.

STIPULATED FACTS

1. At all pertinent times, Respondent was a licensed psychologist in the State of Florida, having been issued license number PY 0005001. Respondent's last known address is 7801 Coral Way #102, Miami, Florida 33155.

2. Respondent was charged by the attached Amended Administrative Complaint properly served upon Respondent, with violations of chapter 455 and 490, Florida Statutes.

3. Respondent admits the factual allegations contained in the Amended Administrative Complaint for purposes of settling these proceedings only.

STIPULATED LAW

1. Respondent admits that in his capacity as a licensed psychologist he is subject to the provisions of chapters 455 and 490, Florida Statutes, and is under the jurisdiction of the Board, Department of Health, and the Agency for Health Care Administration (Agency).

2. Respondent admits that the stipulated facts, if proven true, constitute violations of law and rule as alleged in the Amended Administrative Complaint.

3. The Stipulated Disposition in this Counter-Stipulation is fair, appropriate, and acceptable to Respondent.

STIPULATED DISPOSITION

1. In the future, Respondent shall comply with chapters 455 and 490, Florida Statutes, with the rules promulgated pursuant thereto, and with any other state or federal law or regulation relating to the practice or the ability to practice Psychology.

2. The agreed upon administrative fine imposed upon Respondent by the Board is \$2,000 plus the cost of the investigation in the amount of \$688.97. Respondent shall pay the fine and costs to the Executive Director of the Board, 2020 Capital Circle S.E., Bin #CO5, Tallahassee, Florida 32399-3255 within 30 days of entry of the Final Order accepting the counter-stipulation.

3. Respondent's license to practice psychology shall receive a reprimand in this matter. In addition to the matters referred to in the Amended Administrative Complaint, the Board is highly concerned regarding Respondent's violation of the initial agreement to which he stipulated by his failure to appear before the Board on July 9, 1999.

4. Respondent's license to practice psychology shall be placed on probation for one year, with supervision of his practice. The following terms shall be imposed by the Board with regard to Respondent's year of probation:

- (a) Supervisor to be approved by the Board.
- (b) Supervisor to review monthly patient records for adequate content.
- (c) Supervisor to submit reports to the Board every three months.
- (d) Respondent to ensure that supervisor's reports are timely.
- (e) Respondent to pay for the review.

5. Within one year of the rendition of the Final Order adopting this Counter-Stipulation, Respondent shall submit documentation to the Board, which establishes that he has completed 10 hours of continuing education in the area of ethical and legal responsibilities. These hours must be from Board approved courses, they shall be in

addition to those normally required for licensure, and Respondent's licensed supervising psychologist shall pre-approve the coursework.

6. Respondent shall appear when the signed Counter-Stipulation is presented to the Board.

7. It is expressly understood that a violation of the terms of this Counter-Stipulation shall be considered a violation of a Final Order of the Board for which disciplinary action may be initiated pursuant to chapters 455 and 490, Florida Statutes.

8. It is expressly understood that this Counter-Stipulation is subject to approval by the Board and has no force or effect until the Final Order is issued.

9. This Counter-Stipulation is executed by Respondent for the purpose of avoiding further administrative action by the Board regarding the acts or omissions specifically set forth in the attached Amended Administrative Complaint. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of the Counter-Stipulation. Respondent agrees to support this Counter-Stipulation at the time it is presented to the Board and shall offer no evidence, testimony, or argument that disputes or contravenes any fact or conclusion of law stipulated to herein. Furthermore, should this Counter-Stipulation not be accepted by the Board, it is agreed that the presentation and the consideration by the Board of this Counter-Stipulation and other documents and matters shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

10. Respondent and the Department fully understand that this Counter-Stipulation and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Department, Board, or the Agency against Respondent for acts or omissions which are not the subject of the Amended Administrative Complaint. This Counter-Stipulation relates solely to the current disciplinary proceedings arising from this complaint and does not preclude further action by other divisions, departments, and/or sections of the Department and Agency including, but not limited to, the Medicaid Program Integrity Office.

11. Respondent waives the right to seek any attorney's fees and/or costs from the Board, the Department of Health, or from the Agency in connection with this disciplinary proceeding.

WHEREFORE the parties request the Board to enter a Final Order accepting and implementing the terms contained herein.

Accepted by Respondent this 17th day of January, 2000 1999.



GUSTAVO ALBERTO FONTE

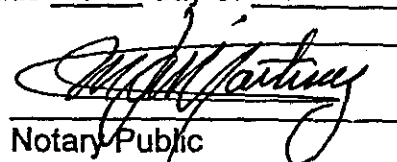
Respondent

Case Number 96-03982

(Signature must be notarized below)

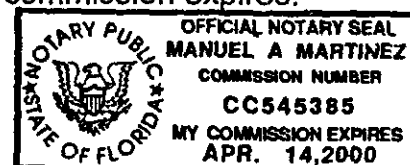
Before me, personally appeared Gustavo Fonte, whose identity is known to me by Driver License (type of identification) and who, under oath acknowledges that her signature appears above.

Sworn to and subscribed by Respondent before me this 17 day of January, 2000 1999.



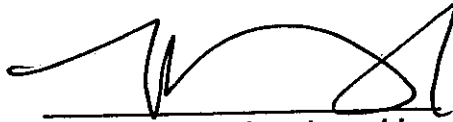
Notary Public

My commission expires:



APPROVED by Petitioner this 2nd day of February, ²⁰⁰⁰ 1999.

ROBERT G. BROOKS, SECRETARY
DEPARTMENT OF HEALTH



by: Nancy M. Snurkowski
Chief Attorney
Agency for Health Care Administration

FILED

Department of Health
Angela Hall, AGENCY CLERK

By: Vicki R. Ellison
Deputy Agency Clerk

STATE OF FLORIDA
BOARD OF PSYCHOLOGY

DEPARTMENT OF HEALTH

Petitioner,

vs.

CASE NO. 96-03982

GUSTAVO A. FONTE,

Respondent.

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FINAL ORDER

THIS MATTER came before the Board of Psychology (Board) at a duly-noticed public meeting on December 3, 1999, in Miami, Florida, for re-consideration of a proposed Counter-Stipulation (attached hereto as Exhibit 1). The Respondent was present and Petitioner was represented by counsel. After consideration of Respondent's request, the Board declined to lower the penalty, and the parties accepted the terms of the proposed Counter-Stipulation.

WHEREFORE, IT IS HEREBY ORDERED AND ADJUDGED that the agreed upon terms and conditions of the Counter-Stipulation as proposed are hereby approved, adopted, and incorporated by reference herein.

This Final Order shall take effect upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 25 day of January, 1999.

Kaye Howerton

Kaye Howerton, Board Executive Director for
the BOARD OF PSYCHOLOGY