

STATE OF FLORIDA  
DEPARTMENT OF HEALTH

PRACTITIONER REGULATION  
LEGAL

2002 NOV -7 AM 10: 21

DEPARTMENT OF HEALTH,  
BOARD OF PSYCHOLOGY,

PETITIONER,

v.

CASE No. 2002-09927

RICHARD T. POTSUBAY, Ph.D.,

RESPONDENT

**Exhibit A**

**ADMINISTRATIVE COMPLAINT**

The Petitioner, Department of Health ("Petitioner"), files this Administrative Complaint before the Board of Psychology against Richard T. Potsubay, PhD ("Respondent") and alleges:

1. Petitioner is the state agency charged with regulating the practice of psychology pursuant to Section 20.43, Florida Statutes, Chapters 456 and 490 Florida Statutes.
2. Respondent is and has been at all times material hereto a licensed psychologist in the state of Florida, having been issued license number PY 3754. Respondent's last known address is Riviera United Methodist Church, 175 62<sup>nd</sup> Avenue North, St. Petersburg, Florida 33702-7593.
3. The Department was notified by letter dated April 3, 2002, from the American Psychological Association that the Respondent may have been practicing beyond the scope of his license. Attached to that letter was a copy of a report bearing the Respondent's professional letterhead.
4. The Respondent uses the title "Christian Psychologist Physician" on his letterhead.
5. Section 458.305(4), Florida Statutes (2001) defines a "physician" as a person who is licensed to practice medicine in Florida.

6. Section 490.0 2(1)(e), Florida Statutes (2001), provides that "no person licensed or provisionally licensed pursuant to this chapter shall hold herself or himself out by any title or description which indicates licensure other than that which has been granted to her or him."

7. The Respondent is not licensed to practice medicine in Florida.

8. By using the title "Christian Psychologist Physician," the Respondent is representing that he is a "physician" and therefore that he is licensed to practice medicine in Florida when he is not licensed as a physician.

9. By using the title "Christian Psychologist Physician," the Respondent is falsely advertising his licensure status in that he is not a "physician" as that term is defined under Florida law.

10. By using the title "Christian Psychologist Physician," the Respondent is making a misleading representation in the practice of psychology, in that he is not a "physician" as that term is defined under Florida law.

11. By using the title "Christian Psychologist Physician," the Respondent is practicing below the minimum standards of performance in the profession of psychology in that it is not a practice in Florida for a psychologist to hold himself out as a "physician" unless that psychologist is licensed to practice medicine in this state.

12. The Petitioner has incurred costs related to the investigation and prosecution of this matter.

13. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter on a respondent in addition to any other discipline imposed.

**Count I**

14. The Petitioner alleges Paragraphs 1 through 13 as though fully set forth herein.

15. The Respondent has violated Section 490.009(1)(d), Florida Statutes (2001), for false, deceptive or misleading advertising.

**Count II**

16. The Petitioner alleges Paragraphs 1 through 13 as though fully set forth herein.

17. The Respondent has violated Section 490.009(1)(l), Florida Statutes (2001), for making misleading, deceptive, untrue or fraudulent representations in the practice of psychology.

**Count III**

18. The Petitioner alleges Paragraphs 1 through 13 as though fully set forth herein.

19. The Respondent has violated Section 490.009(1)(r), Florida Statutes (2001), for failure to meet minimum standards of performance in the practice of psychology.

**Count IV**

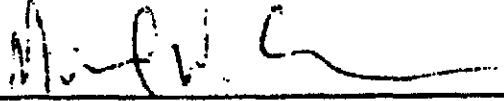
20. The Petitioner alleges Paragraphs 1 through 13 as though fully set forth herein.

21. The Respondent has violated Section 490.012(1)(e), Florida Statutes (2001), for holding himself out as a physician when he is not a licensed physician.

WHEREFORE, the Petitioner respectfully requests that the Board of Psychology enter an order assessing administrative costs related to the investigation and prosecution of this case as provided for in Section 456.072(4), Florida Statutes, in addition to or as well as imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation corrective action and/or any other relief that the Board deems appropriate.

SIGNED this 5<sup>th</sup> day of November, 2002.

John O. Agwunobi, MD, MBA  
Secretary, Department Of Health



By: Michael W. Carlson  
Assistant General Counsel  
Fla. Bar No. 56235  
Department of Health  
Office of General Counsel  
Prosecution Services Unit  
4052 Bald Cypress Way, Bin C-65  
Tallahassee, Florida 32399-3265  
(850) 414-9655/(850)9 22-0004

Reviewed by DLL on 11/5/02.

PCP: Richard Hoffman & Juliet Lewis

DATE: 10/30/02

**FILED**  
DEPARTMENT OF HEALTH  
DEPLTY CLERK  
CLERK Nich P. Kenon  
DATE 11/6/02

STATE OF FLORIDA  
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,  
BOARD OF PSYCHOLOGY

**Exhibit B**

Petitioner

v.

CASE NO.: PY 2002-09927

RICHARD POTSUBAY, PhD,

**STIPULATION**

Pursuant to Section 120.57(4), Florida Statutes, the above named parties hereby offer this Stipulation to the Board of Psychology as disposition of the Administrative Complaint, attached hereto as Exhibit "A", in lieu of any other administrative proceedings. The terms herein become effective only if and when a Final Order accepting this Stipulation is issued by the Board and filed. In considering this Stipulation, the Board may review all investigative materials regarding this case. If this Stipulation is rejected, it, and its presentation to the Board, shall not be used against either party.

**STIPULATED FACTS**

1. For all times pertinent hereto, the Respondent was a licensed a Psychologist in the State of Florida, having been issued license number PY 3754. The Respondent's last known address is Riviera United Methodist Church, 175 62<sup>nd</sup> Avenue North, St. Petersburg, Florida 33702-7593.

2. The Respondent was charged in an Administrative Complaint filed by the Board and properly served upon the Respondent with violations of Chapters 456 and 490, Florida Statutes. A true and correct copy of the Administrative Complaint is attached hereto and incorporated by reference as Exhibit A.

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

#### STIPULATED LAW

1. The Respondent admits that he is subject to the provisions of Chapters 456 and 490, Florida Statutes, and the jurisdiction of the Board and the Department.

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

3. The Respondent admits that the stipulated disposition in this case is fair, appropriate, and acceptable to the Respondent.

#### PROPOSED DISPOSITION

1. The Respondent shall be present when this Stipulation is presented by the Department to the Board and under oath shall answer questions by the Board concerning this case and the disposition thereof.

2. The Board of Psychology shall reprimand the license of the Respondent.

3. The Board of Psychology shall impose an administrative fine of Four Thousand Dollars (\$4,000) dollars against the license of the Respondent. The Respondent must also pay the administrative costs of Two Hundred Two Dollars (\$202) associated with the complaint

and investigation of this matter. Both the administrative fine imposed by the Board and the administrative costs shall be paid by the Respondent to the Executive Director of the Board of Psychology. Both the fine and costs shall be mailed to: Department of Health, Attn: Psychology Compliance Officer, HMQAMS/Client Services, P. O. Box 6320, Tallahassee, Florida 32314-06320, within thirty (30) days from entry of the Final Order accepting this stipulation.

4. The Respondent's license shall be placed on probation for a period of one (1) year with conditions set by the Board of Psychology.

5. The Respondent shall not in the future violate Chapters 456 and 490, Florida Statutes, the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or to the ability to practice Psychology. It is expressly understood that a violation of the terms of this Stipulation shall be considered a violation of a Final Order of the Board of Psychology, for which disciplinary action may be initiated pursuant to Chapter 456 or 490, Florida Statutes.

6. It is expressly understood that this Stipulation is subject to approval of the Board and has no force or effect until a Final Order is entered by the Board approving this Stipulation.

7. The Respondent and the Department fully understand that this Stipulation and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board against the Respondent for acts or omissions which are not the subject of the Administrative Complaint, attached as Exhibit A.

8. The Respondent waives the right to seek attorney's fees and/or costs from the Department in connection with this disciplinary proceeding.

9. Upon the Board's adoption of this Stipulation, the Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the Stipulation and the Final Order of the Board incorporating said Stipulation.

WHEREFORE, the parties hereto request the Board to enter a Final Order accepting and implementing the terms contained in this Stipulation.

SIGNED this 26<sup>th</sup> day of November, 2002

Richard T. Patsubay, Ph.D.  
Richard Patsubay  
CASE NO. PY 2002-09927

STATE OF FLORIDA  
COUNTY OF Pinellas

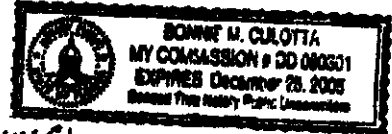
Before me, personally appeared Richard T. Patsubay, Ph.D., whose identity is known to me by known to me personally (type of identification) and who, under oath, acknowledges that his/h<sub>er</sub> signature appears above.

Sworn to and subscribed by The Respondent before me this 26 day of November, 2002.

Bonnie M. Ciotta  
Notary Public

12/25/2005  
My Commission Expires:

APPROVED this 10<sup>th</sup> day of February, 2003.  
(WSB)



Secretary, Department Of Health

By: W.S. Benton  
Wings S. Benton, Deputy General Counsel  
Prosecution Services Unit

**COUNSEL FOR PETITIONER:**

**Michael Carlson, Assistant General Counsel  
Fla. Bar No. 56235  
Department of Health  
Office of General Counsel  
Prosecution Services Unit  
4052 Bald Cypress Way, Bin C-65  
Tallahassee, Florida 32399-3265  
(850) 414-9655**

**MWC/emz**

**Case No. PY 2002-09927**

STATE OF FLORIDA  
BOARD OF PSYCHOLOGY

Final Order No. DOH-03-0455-5-MOA  
FILED DATE - 5/9/03  
Department of Health  
By: Vicki R. Kerson  
Deputy Agency Clerk

DEPARTMENT OF HEALTH,  
BOARD OF PSYCHOLOGY,

Petitioner,

vs.

CASE NO.: 2002-09927  
LICENSE NO.: PY 0003754

RICHARD T. POTSUBAY, Ph.D.,

Respondent.

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**FINAL ORDER ACCEPTING STIPULATION**

Richard T. Potsubay, Ph.D., Respondent, (hereinafter "Respondent"), is licensed as a psychologist by the Board of Psychology (hereinafter "the Board"). The Department of Health (hereinafter "the Department") filed an Administrative Complaint against the Respondent on November 5, 2002. Following the Department's Administrative Complaint, a copy of which is attached hereto as Exhibit "A" and incorporated by reference into this Final Order, the Respondent and the Department entered into a Stipulation settling all issues in the case pursuant to § 120.57(4), Florida Statutes. The Board reviewed the case and the Stipulation at its duly noticed public meeting held in Orlando, Florida, on March 21, 2003. The Respondent was not present at the Board's March 21, 2003, public meeting, nor was he represented by counsel at the hearing on this matter. The Department was represented by Ruby Seymour-Barr, Esquire. The Board accepted the Stipulation, which is attached as Exhibit "B" and incorporated by reference into this Final Order.


WHEREFORE, the Board hereby accepts the Stipulation, settling all matters in

this case consistent with the terms of the agreement between the parties, and the Respondent is hereby ORDERED to abide by the terms of the Stipulation. This Final Order shall be placed in and made a part of the Respondent's official records.

This Final Order shall become effective upon filing with the Clerk for the Department of Health.

DONE AND ORDERED, this 7<sup>th</sup> day of May, 2003.

BOARD OF PSYCHOLOGY

  
Kaye Howerton, Executive Director  
for Katurah Jenkins-Hall, Ph.D., Chair

**NOTICE OF RIGHT TO APPEAL**

**THIS ORDER CONSTITUTES FINAL AGENCY ACTION AND MAY BE APPEALED BY ANY PARTY PURSUANT TO SECTION 120.68, FLORIDA STATUTES, AND RULES 9.110 AND 9.190, FLORIDA RULES OF APPELLATE PROCEDURE, BY FILING A NOTICE OF APPEAL CONFORMING TO THE REQUIREMENTS OF RULE 9.110(D), FLORIDA RULES OF APPELLATE PROCEDURE, BOTH WITH THE APPROPRIATE DISTRICT COURT OF APPEAL, ACCOMPANIED BY THE APPROPRIATE FILING FEE, AND WITH THE DEPARTMENT'S CLERK OF AGENCY PROCEEDINGS, WITHIN THIRTY (30) DAYS OF RENDITION OF THIS ORDER.**