

STATE OF FLORIDA  
DEPARTMENT OF HEALTH

By: *Vicki R. Kanan*  
Deputy Agency Clerk

BOARD: Clinical Social Work, Marriage and Family Therapy and  
Mental Health Counseling

CASE NUMBER: 96-13039

COMPLAINT MADE BY: RSW

DATE OF COMPLAINT: September 24, 1996

RESPONDENT: Gary Santucci, LMFT  
3501 South University Drive, Suite #10  
Fort Lauderdale, Florida 33328

RESPONDENT'S ATTORNEY: Andrew Siegel, Attorney at Law  
Suite 412, Executive Pavilion  
300 Northwest 82<sup>nd</sup> Avenue  
Plantation, Florida 33324

INVESTIGATED BY: Anthony Spina  
Fort Lauderdale / BIS

REVIEWED BY: Deborah Loucks *DL*  
Senior Attorney

RECOMMENDATION: DISMISS (PL - 82)

**NOLLE PROSEQUI/ DETAILED REPORT**

**THE COMPLAINT:** The Administrative Complaint filed in this case alleges violations of Section 491.009(2)(k), Florida Statutes, by committing an act upon a patient that would constitute sexual misconduct and Section 491.009 (2)(s), Florida Statutes, by failing to meet minimum standards of performance in professional activities.

**THE FACTS:** The Probable Cause Panel initially reviewed this case on September 18, 1997, and reconsidered this case on October 13, 1999 with the latter Panel finding that probable cause for discipline existed on the above-cited violations.

Investigation by the Department determined that the allegations could not be substantiated to the extent required to prevail at hearing. This case is predicated on a complaint filed against the Respondent by a former client who is also the ex-husband of the Respondent's present wife (LW). The Administrative Complaint alleges that the Respondent provided marital therapy to the Complainant and his then wife from approximately May to July of 1993. The Respondent then provided individual therapy to LW until approximately November or December of 1994 (there is some discrepancy on the termination date). The Respondent and LW were married on September 6, 1997. The file does not contain any definite evidence to indicate when the inappropriate dual relationship between the Respondent and LW began. As LW is the Respondent's wife, she is not willing to testify against her husband at a hearing. Therefore, key evidence is missing as there are

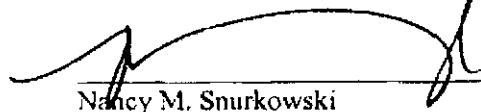
no eye witnesses to attest to any inappropriate relationship existing during therapy or within the two year period subsequent to the termination of therapeutic services.

**THE LAW:** The Agency has the burden of proving allegations contained in the Administrative Complaint by clear and convincing evidence. Ferris v. Turlington, 510 So.2d. 292 (Fla. 1987). Based on the evidence before the Agency and the unavailability of witnesses to corroborate the allegations contained in the Administrative Complaint, the Agency is unable to meet its burden of clear and convincing evidence. Therefore, this matter will be dismissed without further prosecution.

This Nolle Prosequi/ Detailed Report was presented to the Probable Cause Panel on the 2<sup>nd</sup> day of October, 2000.

DONE AND ORDERED this 4<sup>th</sup> day of October, 2000.

Robert G. Brooks, M.D., Secretary



Nancy M. Snurkowski  
Chief Attorney – Practitioner Regulation - Legal  
Agency for Health Care Administration

DBL/dbl