

STATE OF FLORIDA
DEPARTMENT OF HEALTH

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DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO.: 97-08259

GARY J. SANTUCCI,

Respondent.

ADMINISTRATIVE COMPLAINT

DEPARTMENT OF HEALTH, hereinafter referred to as "Petitioner", files this Administrative Complaint before the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling against GARY J. SANTUCCI, hereinafter referred to as "Respondent", and alleges:

1. Effective July 1, 1997, Petitioner is the state agency charged with regulating the practice of Mental Health Counseling pursuant to Section 20.43, Florida Statutes, Chapter 455, Florida Statutes, and Chapter 491, Florida Statutes. Pursuant to the authority of Section 20.43(3)(g), 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.

2. Respondent is, and has been at all times material hereto, a licensed Marriage and Family Therapist in the state of Florida, having been issued license number MT 0000682.

3. Respondent's last known address is 3501 South University Drive Suite #10, Ft. Lauderdale, Florida 33328.

4. In a letter to the American Board of Physical Medicine and Rehabilitation (ABPMR) dated February 11, 1997, Respondent held himself out as being a Licensed Psychotherapist.

5. Under his marriage and family therapist license, Respondent can refer to his services as "psychotherapy". However, Respondent cannot use the title "Licensed Psychotherapist", as there is no such licensure in Florida.

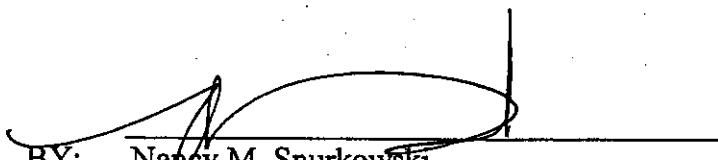
COUNT I

6. Based on the foregoing, Respondent has violated Section 491.009(2)(1), Florida Statutes, by making misleading, deceptive, untrue, or fraudulent representations in the practice of any profession licensed, registered, or certified under this chapter.

WHEREFORE, Petitioner respectfully requests the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling to enter an order imposing one or more of the following penalties: revocation or suspension of Respondent's license, restriction of Respondent's practice, imposition of an administrative fine, issuance of a reprimand, placement of Respondent's license on probation for a period of time and subject to terms and/or conditions, and/or any other relief which the Board deems appropriate.

Signed this 25 day of May, 1999.

Robert G. Brooks, M.D.
Secretary Department of Health



BY: Nancy M. Snurkowski,
Chief Attorney
General Counsel's Office-MQA
Allied Health

COUNSEL FOR PETITIONER

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SB

PCP: March 25, 1999


FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Stephanie Q. Dism*
DATE 5-26-99

STATE OF FLORIDA
DEPARTMENT OF HEALTH

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Vicki R. Kenan
DATE 10/9/2000

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

CASE NUMBER: 97-08259

COMPLAINT MADE BY: 

DATE OF COMPLAINT: May 1, 1997

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 82nd Avenue
Plantation, Florida 33324

INVESTIGATED BY: Luis Garriga
Fort Lauderdale

REVIEWED BY: Deborah Loucks *DL*
Senior Attorney

RECOMMENDATION: DISMISSED (PL - 99)

CLOSING ORDER

THE COMPLAINT: The complaint alleges a violation of Section 491.009 (2)(1), Florida Statutes, by making misleading, deceptive, untrue or fraudulent representations in the practice.

THE FACTS: The Probable Cause Panel reviewed this case on March 25, 1999, and found that probable cause for discipline existed on the above-cited violation. The finding of probable cause was based upon the Respondent calling himself a "Licensed Psychotherapist" in a letter that he mailed to the Complainant. The Respondent does not call himself a "Licensed Psychotherapist" in his letterhead, billing, stationery, or any other document which lists his credentials.

Due to the Complainant's unavailability to testify a hearing (the Complainant resides in Minnesota and his testimony would be needed to authenticate the document), the Agency will be unable to satisfy its burden at a hearing on this matter. The Agency is therefore requesting that the Panel close this case and issue a letter of guidance to the Respondent advising him to be more careful and specific in documenting his credentials.

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).

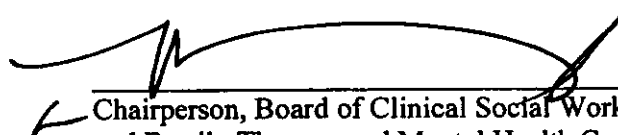
The clear and convincing evidence standard was enunciated in Evans Packing Co. v. Department of Agriculture and Consumer Services, 550 So.2d. 112 (Fla. 1st DCA 1989). The Court found that:


[C]lear and convincing evidence requires that the evidence must be found to be credible; the facts to which the witness testify must be distinctly remembered; the evidence must be precise and explicit and the witnesses must be lacking in confusion as to the facts at issue. The evidence must be of such weight that it produces in the mind of the trier of fact the firm belief of (sic) conviction, without hesitancy, as to the truth of allegations sought to be established.

Slomowitz v. Walker, 429 So.2d. 797, 800 (Fla. 4th DCA 1983).

It is, therefore, ORDERED that this matter be DISMISSED, and same is hereby, CLOSED.

DONE AND ORDERED this 14th day of October, 2000.


Chairperson, Board of Clinical Social Work, Marriage
and Family Therapy and Mental Health Counseling

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