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A TRUE COPY

JOHN J. FARMER, JR.
ATTORNEY GENERAL OF NEW JERSEY
By: Joan D. Gelber
Deputy Attorney General
Division of Law - 5th floor
124 Halsey Street
P.O.B. 45029
Newark, New Jersey 07101
Tel. 973-648-2478

FILED WITH THE BOARD OF
PSYCHOLOGICAL EXAMINERS
ON June 28, 1999

STATE OF NEW JERSEY
DEP'T OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF PSYCHOLOGICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION	:	ADMINISTRATIVE ACTION
OR REVOCATION OF LICENSE OF	:	INTERIM ORDER
JAMES J. KRIVACSKA, Psy.D.	:	OF REVOCATION OF LICENSE
LICENSED TO PRACTICE PSYCHOLOGY	:	ON COUNTS 1, 2 and 4 OF
IN THE STATE OF NEW JERSEY	:	THE COMPLAINT

This matter was presented to the State Board of Psychological Examiners by way of Complaint filed May 11, 1999 by the Attorney General of New Jersey, by Joan D. Gelber, Deputy Attorney General. The Complaint alleged in four Counts that respondent was subject to Board disciplinary action for conduct summarized as follows:

1. Respondent James J. Krivacska, Psy.D. has been criminally convicted of sexual offenses against child T.A.: aggravated criminal sexual contact and endangerment of the welfare of a child, in violation of N.J.S.A. 2C:14-3a and 2C:24-4a, respectively.

2. Respondent has been criminally convicted of sexual offenses against child M.P.B.: aggravated criminal sexual assault, aggravated criminal sexual contact and endangerment of the welfare of a child, in violation of N.J.S.A. 2C:14-2a(2), 2C:14-3a and 2C:24-4a, respectively.

The conduct in both Counts 1 and 2 was alleged to constitute violation of N.J.S.A. 45:1-21(e), (f), (h) and pertinent Board rules

as cited in the Complaint, and of N.J.S.A. 45:14B-24 as a failure of the ongoing responsibility to maintain good moral character.

3. Respondent initiated and engaged in sexual contact with another male child, J.P.F., constituting gross malpractice and professional misconduct, failing to maintain the requisite good moral character, and other violations as set forth in the Complaint.

4. The criminal convictions alone, or in conjunction with the conduct as to the other boy, constitute violations of the professional practice act as well as the Uniform Enforcement Act, all as cited in the Complaint, including incapacity to discharge the functions of a licensee in a manner consistent with the public's health, safety and welfare, all warranting disciplinary sanction.

Respondent was personally served on May 14, 1999 at the State Prison at Avenel, New Jersey with notice of the proceedings. Respondent, who has held license No. 2701, and whose last address of record was 29 Elm Place, Milltown, New Jersey 08850, is represented by Jerome A. Ballarotto, Esq.

Complainant's motion for partial summary decision, which was scheduled to be heard on May 24, 1999, has been temporarily adjourned.

Respondent, in lieu of appearing and contesting the Attorney General's motion for partial summary decision on Counts 1, 2 and 4, and having had the opportunity to consult with his attorney, has

determined to enter the following plea in the circumstances specified below.

Respondent admits the allegations of Count 1, Count 2 and Count 4 insofar as they allege the fact of respondent's criminal convictions for conduct involving the boys T.A. and M.P.B. Respondent consents to the consideration by the Board of Complainant's exhibits evidencing the criminal Accusation, the Indictment, the sworn statements of T.A. and M.P.B., and the January 13, 1998 ruling by the Hon. Michael D. Farren denying defendant's motions to disqualify the boys as witnesses, and the Order and Agreement filed January 31, 1995 limiting respondent's license to practice psychology in this State.* In addition, respondent acknowledges the Certification of investigative costs as submitted by the Enforcement Bureau of the Division of Consumer Affairs.

Respondent denies the allegations as to J.P.F. as set forth in Count 3.

The Board has considered the record as stipulated, and the applicable law and rules. The Board finds that respondent James J. Krivacska, Psy.D. has been criminally convicted of sexual offenses against child T.A. and child M.P.B. Each of the offenses constitutes a crime of moral turpitude and a crime adversely

*Respondent has represented that he is appealing both convictions. He acknowledges that his petitions for bail pending appeal have been denied by the trial court, by the Appellate Division of Superior Court, and by the New Jersey Supreme Court. He is currently incarcerated in the State Prison at Avenel.

relating to the activity of the regulated profession of psychology in this State. The Board finds that each of respondent's criminal convictions constitute grounds for disciplinary action pursuant to N.J.S.A. 45:1-21(e) and (f) and as a violation of N.J.S.A. 45:14B-24, and further finds that summary decision is appropriate and warranted in such circumstances. For good cause shown,

IT IS, ON THIS 28th DAY OF JUNE 1999

ORDERED:

1. The license of James J. Krivacska, Psy.D. be and it is hereby revoked, with prejudice to any reapplication. Respondent shall forthwith make arrangement for surrender of his engrossed license and biennial registration and delivery to the Board at its administrative office at 124 Halsey Street, Newark, New Jersey.

2. Respondent is assessed investigative costs of \$4,961.68.* Said costs are due and payable within 10 days of the filing of this Order. Failure to pay shall result in the filing of a Certificate of Debt as authorized by N.J.S.A. 45:1-24. Respondent may make arrangements with the Board office for installment payments, subject to Board approval.

3. The Disciplinary Directives of the Board attached hereto are incorporated in this Order, and are applicable to respondent whether or not he remains incarcerated.

*In light of the totality of the circumstances, no separate penalty is assessed for the matters resolved by this Order. The Attorney General has reserved the right to seek penalties for the conduct alleged in Count 3.

4. Hearing on the allegations of Count 3 and on all remaining allegations of the Complaint is deferred. Those portions of the case shall be placed on the inactive list of the Board pending conclusion of the criminal appeal. However, either party shall have leave to petition, on 60 days' notice, to place the matter on the active list for disposition.

5. It is recognized by the parties that this disposition is predicated upon the status of the criminal convictions. In the event that both convictions are reversed, respondent may immediately seek reconsideration of the matter.

THIS ORDER IS EFFECTIVE UPON ENTRY.

STATE BOARD OF PSYCHOLOGICAL EXAMINERS

By: *Kenneth G. Roy*
Kenneth G. Roy, Ed.D., Chair

I have read the within Order and understand its terms. I consent to the filing of the Order by the Board of Psychological Examiners.

James D. Krivacska
James D. Krivacska, Psy.D.

Sworn to and subscribed before me
Witness: this 21st day of June 19 99

By: *Margaret R. Ossont*, Notary Public
Counsel to Dr. Krivacska
MARGARET R. OSSONT
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 8-12-2001

BOARD OF PSYCHOLOGICAL EXAMINERS: DIRECTIVE REGARDING
FUTURE ACTIVITIES OF BOARD LICENSEE WHOSE LICENSE
HAS BEEN SUSPENDED/REVOKED OR SURRENDERED, AND
REGARDING USE OF THE PROFESSIONAL PREMISES

A practitioner whose license is suspended or revoked or whose surrender of license with or without prejudice has been accepted by the Board shall conduct him/herself as follows.

1. Document Return and Agency Notification.

The disciplined practitioner shall promptly deliver to the Board office at 124 Halsey Street, 6th floor, Newark, NJ 07102 the original license and current biennial registration. (With respect to suspensions of a finite term, at the conclusion of the term the practitioner may contact the Board office for the return of the documents previously surrendered to the Board.)

2. Practice Cessation.

The disciplined practitioner shall cease and desist from engaging in the practice of psychology in this State. This prohibition not only bars a practitioner from rendering professional services, but also from providing an opinion as to professional practice or its application, or from representing him/herself as being eligible to practice as a psychologist or in any way assuming to be a practicing professional such as a counselor, psychotherapist, psychoanalyst, therapist or other mental health care worker. (Although the disciplined practitioner need not affirmatively advise patients or others of the revocation, suspension or surrender, the practitioner must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined practitioner may contract for, accept payment from another licensee for, or rent at fair market value, office premises and/or equipment. In no case may the disciplined practitioner authorize, allow or condone the use of his/her provider number by the practice or by any other licensee or health care provider. (In situations where the practitioner has been suspended for less than one year, the practitioner may accept payment from another professional who is using his/her office during the period that the practitioner is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A practitioner whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The practitioner must also take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings. If the practitioner's name is utilized in a group practice, it shall be deleted.

3. Practice Income Prohibits/Divestiture of Equity Interest in Professional Service Corporations

A disciplined practitioner shall not charge, receive or share in any fee for professional services rendered by him/her or others while barred from engaging in the professional practice. The practitioner may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A disciplined practitioner who is a shareholder in a professional service corporation or limited liability corporation or partnership organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act (N.J.S.A. 14A:17-11) or as an eligible shareholder in a limited liability entity. A disqualified practitioner shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c) and from financial interest in the limited liability entity. Such divestiture shall occur within ninety (90) days following the disqualification to own shares in the corporation. Upon divestiture, the disciplined practitioner shall forward to the Board a copy of the documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the disciplined practitioner is the sole shareholder in a professional service corporation or limited liability entity, the corporation must be dissolved within ninety (90) days of the practitioner's disqualification.

4. Patient Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the disciplined practitioner shall ensure that, during the three (3) month period following the effective date of the disciplinary Order, a message shall be delivered to persons telephoning the former office premises advising where records may be obtained. The message should inform patients of the names and telephone numbers of the disciplined practitioner (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of general circulation in the geographic vicinity in which the professional practice was conducted. At the end of the three month period, the disciplined practitioner shall file with the Board the name and telephone number of the contact person who will have access to records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her treatment record or asks that the record be forwarded to another licensed health care provider, the disciplined practitioner shall promptly provide the record without charge to the patient.

5. Probation/Monitoring Conditions.

A disciplined practitioner whose active suspension of license has been stayed in full or in part, conditioned upon compliance with a probation or monitoring program, shall fully cooperate with the Board and its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a) Monitoring of practice conditions may include, but is not limited to, inspection of the professional premises and equipment, and inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with the Board Order and accepted standards of practice.

(b) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual/facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by a rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and providing the designated sample.



Compliance For James J Krivacska

Violations | Actions | Citation | Monetary Penalties | Restitution | Limits | Monitoring

From: Board Violation: (none)

Complaint #	Docket #	Cause #	State	Start	End	Action
Practicing Psychologist License #358100270100:						
449			NJ	06/28/1999	00/00/0000	Revocation-dem

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