

JOHN J. FARMER, JR.
ATTORNEY GENERAL OF NEW JERSEY
Division of Law, 5th floor
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07102

FILED

NOV 21 2000

NEW JERSEY BOARD OF
CHIROPRACTIC EXAMINERS

By: Anthony P. Kearns, III
Deputy Attorney General
Tel. (973) 648-7454

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF CHIROPRACTIC EXAMINERS

In the Matter of the Revocation of
the License of

PHILIP M. POTACCO, D.C.
LICENSE NO. MC-1657

To Practice Chiropractic
in the State of New Jersey

Administrative Action

COMPLAINT

JOHN J. FARMER, JR., Attorney General of New Jersey, by
Anthony P. Kearns, III, Deputy Attorney General, with offices
located at the Division of Law, 124 Halsey Street, Fifth Floor
Newark, New Jersey 07102, on the basis of information and belief,
by way of Complaint says:

COMMON ALLEGATIONS TO ALL COUNTS

1. Complainant, Attorney General of New Jersey, is charged
with enforcing the laws in the State of New Jersey, pursuant to
N.J.S.A. 52:17A-4(h), and is empowered to initiate administrative

disciplinary proceedings against persons licensed by the Board of Chiropractic Examiners, pursuant to N.J.S.A. 45:1-14 et seq.

2. The New Jersey State Board of Chiropractic Examiners ("The Board") is empowered with the duty and responsibility of regulating the practice of Chiropractic in the State of New Jersey pursuant to N.J.S.A. 45:9-41.4 et seq.

3. Respondent, Philip M. Potacco, D.C., is the holder of a currently suspended license to practice chiropractic in the State of New Jersey, holding license number MC-1657. The license was suspended pursuant to a Final Order filed by the Board of Chiropractic Examiners on April 30, 1997.

4. Respondent's license to practice chiropractic was previously suspended pursuant to a Final Order filed by the Board on January 8, 1985. Respondent was convicted of one count of transporting stolen securities in interstate commerce, which involved a scheme to defraud insurance companies. The offense involved the filing of false insurance forms by respondent which represented billings for chiropractic services which were never provided. The respondent's license to practice chiropractic was suspended for five years with the first two years thereof served as an active period of suspension and the remaining years stayed and served as a period of probation.

5. Respondent's license to practice chiropractic was suspended for a second time pursuant to a Final Order filed by the

Board on April 30, 1997. The Board found that the Respondent engaged in misrepresentation and professional misconduct and in record keeping violations. Specifically, the Board found that the respondent provided excessive treatment to his patients, that he failed to keep adequate records to document the observations made by him, and failed to document advice to his patients as to the restrictions on their physical activity. Respondent's license to practice chiropractic was suspended for five years with the first three years thereof served as an active period of suspension and the remaining years were to be stayed and served as a period of probation.

6. The Respondent's license to practice chiropractic in the State of New Jersey was suspended retroactive to December 1, 1996.

COUNT I

1. Complainant repeats and realleges all allegations set forth in the General Allegations to the Complaint and in the other Counts of this Complaint as if set forth herein.

2. On or about August 15, 2000, Allen DeMauro, an investigator with the New Jersey Division of Consumer Affairs Enforcement Bureau served a subpoena on the North American Risk Services seeking any and all billing records pertaining to the respondent and his treatment of the company's insured patient, GPS.

3. The North American Risk Services company forwarded GPS's records to the New Jersey Division of Consumer Affairs Enforcement Bureau on August 24, 2000.

4. The records reveal GPS, in fact, was treated by the respondent at the Chiropractic Center of Little Falls and subsequently at the Advanced Rehabilitation, Inc., and the North Jersey Trauma Center. Respondent treated GPS from April 7, 1998 through December 7, 1999. The respondent's treatment of GPS consisted of physical therapy, massage, and chiropractic adjustments.

5. On or about May 23, 1998 and June 19, 1998 the respondent referred GPS for an MRI at Open MRI of Fairview, New Jersey.

6. Requests for payment for services rendered to GPS were made by a Dr. Joseph R. Montemurro, D.C. along with the respondent on December 28, 1998.

7. On or about September 11, 2000, investigator Allen DeMauro of the New Jersey Division of Consumer Affairs Enforcement Bureau interviewed GPS. In a sworn statement GPS stated that respondent, himself, treated her from September or October 1998 to December 1999. GPS stated that her treatment consisted of "therapy of heat, massage, treadmill and bike exercise and video tape exercises, adjustments to my neck.... The times that Dr. Potacco manipulated my neck [and] spine were the times I felt the best"

8. GPS picked a photograph of the respondent out of a photograph lineup and placed her initials and the date on that photograph and identified the respondent as the doctor who treated her.

9. When shown a picture of Dr. Joseph R. Montemurro, GPS stated that she did not recognize the doctor.

10. GPS testified on June 6, 2000 in a statement under oath obtained in a civil proceeding that the respondent managed her care and treatment by providing her treatment and making referrals to other medical professionals for tests and treatment.

11. Respondent's care and chiropractic treatment of GPS while his license to practice chiropractic was actively suspended, by Board Order, constitutes the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense in violation of N.J.S.A. 45:1-21(b); constitutes a failure to comply with the provisions of any act or regulation administered by the Board in violation of N.J.S.A. 45:1-21(h); constitutes gross or repeated acts of malpractice in violation of N.J.S.A. 45:1-21 (c) and (d); constitutes repeated acts of professional misconduct pursuant to N.J.S.A. 45:1-21(e); and constitutes a violation of the Duty to Cooperate regulation pursuant to N.J.A.C. 13:45C-1.4.

COUNT II

1. Complainant repeats and realleges all allegations set forth in the General Allegations to the Complaint and in the other Counts of this Complaint as if set forth herein.

2. On or about August 9, 2000, Allen DeMauro, an investigator with the New Jersey Division of Consumer Affairs Enforcement Bureau served a subpoena on the New Jersey Manufacturers Insurance Company seeking any and all claims submitted by the respondent after April 30, 1997.

3. The New Jersey Manufacturers Insurance Company forwarded patient MM's records to the New Jersey Division of Consumer Affairs Enforcement Bureau on August 24, 2000.

4. The records reveal that MM was, in fact, treated by the respondent at Advanced Rehabilitation, Inc. and North Jersey Trauma Center beginning on December 18, 1998. The respondent's treatment of MM included therapeutic exercises, therapeutic activities, muscle tests, chiropractic manipulation and range of motion exams until his discharge on July 7, 1999.

5. On or about December 29, 1998 the Respondent referred MM for an MRI to Open MRI of Union County.

6. Requests for payment for services rendered to MM were made by a Dr. Joseph R. Montemurro, D.C. along with the respondent.

7. On or about September 13, 2000, investigator Allen DeMauro of the New Jersey Division of Consumer Affairs Enforcement Bureau

interviewed MM. In a sworn statement MM stated that the respondent, himself, treated him with massage, heat and electrical treatments. The respondent first treated MM three times a week and subsequently treated him two times per week.

8. MM picked a photograph of the respondent out of a photograph lineup and placed his initials and the date on that photograph and identified the respondent as the doctor who treated him.

9. When shown a picture of Dr. Joseph R. Montemurro, D.C., MM did not recognize the doctor, as someone who treated him.

10. Respondent's care and chiropractic treatment of GPS while his license to practice chiropractic was actively suspended, by Board Order, constitutes the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense in violation of N.J.S.A. 45:1-21(b); constitutes a failure to comply with the provisions of any act or regulation administered by the Board in violation of N.J.S.A. 45:1-21(h); constitutes gross or repeated acts of malpractice in violation of N.J.S.A. 45:1-21(c) and (d); constitutes repeated acts of professional misconduct pursuant to N.J.S.A. 45:1-21(e); and constitutes a violation of the Duty to Cooperate regulation pursuant to N.J.S.A. 13:45C-1.4.

COUNT III

1. Complainant repeats and realleges all allegations set forth in the General Allegations to the Complaint and in the other Counts of this Complaint as if set forth herein.

2. On or about August 9, 2000, Allen DeMauro, an investigator with the New Jersey Division of Consumer Affairs Enforcement Bureau served a subpoena on the New Jersey Manufacturers Insurance Company seeking any and all claims submitted by the respondent after April 30, 1997.

3. The New Jersey Manufacturers Insurance Company forwarded GM's records to the New Jersey Division of Consumer Affairs Enforcement Bureau on August 24, 2000.

4. The records reveal that patient GM was treated by the respondent at Advanced Rehabilitation, Inc. and North Jersey Trauma Center beginning on December 18, 1998. The respondent's treatment of GM included therapeutic exercises, therapeutic activities, muscle tests, chiropractic manipulation and range of motion exams until her apparent discharge on July 8, 1999.

5. On or about December 29, 1998 and January 11, 1999 the Respondent referred GM for an MRI to Open MRI of Union County.

6. On February 25, 1999 the respondent referred GM to David Markowitz, M.D., P.A. for medical diagnostic testing.

7. Requests for payment for services rendered to GM were made by a Dr. Joseph R. Montemurro, D.C. along with the respondent.

8. On or about September 13, 2000, investigator Allen DeMauro of the New Jersey Division of Consumer Affairs Enforcement Bureau interviewed GM. In a sworn statement GM stated that the respondent treated her with massage, heat, adjustments, and exercises. She stated she was last treated by the respondent in April, 2000 when he manipulated her back.

9. GM picked a photograph of the respondent out of a photograph lineup and placed her initials and the date on that photograph and identified the respondent as the doctor who treated her.

10. When shown a picture of Dr. Joseph R. Montemurro, D.C., GM did not recognize the doctor as someone who treated him.

11. Respondent's care and chiropractic treatment of GPS while his license to practice chiropractic was actively suspended, by Board Order, constitutes the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense in violation of N.J.S.A. 45:1-21(b); constitutes a failure to comply with the provisions of any act or regulation administered by the Board in violation of N.J.S.A. 45:1-21(h); constitutes gross or repeated acts of malpractice in violation of N.J.S.A. 45:1-21(c) and (d); constitutes repeated acts of professional misconduct pursuant to N.J.S.A. 45:1-21(e); and constitutes a violation of the Duty to Cooperate regulation pursuant to N.J.S.A. 13:45C-1.4.

COUNT IV

1. Complainant repeats and realleges all allegations set forth in the General Allegations to the Complaint and in the other Counts of this Complaint as if set forth herein.

2. On or about August 9, 2000, Allen DeMauro, an investigator with the New Jersey Division of Consumer Affairs Enforcement Bureau served a subpoena on the New Jersey Manufacturers Insurance Company seeking any and all claims submitted by the respondent after April 30, 1997.

3. The New Jersey Manufacturers Insurance Company forwarded patient QE's records to the New Jersey Division of Consumer Affairs Enforcement Bureau on August 24, 2000.

4. The records reveal that QE was, in fact, treated by the respondent at Advanced Rehabilitation, Inc. and North Jersey Trauma Center beginning on January 10, 2000. The respondent's treatment of QE included therapeutic exercises, therapeutic activities, muscle tests, chiropractic adjustments and range of motion exams until his apparent discharge on May 24, 2000.

5. On or about January 12, 2000 the Respondent referred QE for an MRI to Open MRI of Fairview County.

6. Requests for payment for services rendered to QE were made by the respondent.

7. On August 31, 2000, Ann Banks, Claims Investigator for New Jersey Manufacturers Insurance Company, interviewed QE. During

this interview QE stated that the subject, himself, treated him with heat and exercise and the respondent used a machine with a monitor to determine if his back was getting better.

8. Respondent's care and chiropractic treatment of GPS while his license to practice chiropractic was actively suspended, by Board Order, constitutes the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense in violation of N.J.S.A. 45:1-21(b); constitutes a failure to comply with the provisions of any act or regulation administered by the Board in violation of N.J.S.A. 45:1-21(h); constitutes gross or repeated acts of malpractice in violation of N.J.S.A. 45:1-21(c) and (d); constitutes repeated acts of professional misconduct pursuant to N.J.S.A. 45:1-21(e); and constitutes a violation of the Duty to Cooperate regulation pursuant to N.J.S.A. 13:45C-1.4.

COUNT V

1. Complainant repeats and realleges all allegations set forth in the General Allegations to the Complaint and in the other Counts of this Complaint as if set forth herein.

2. On or about August 9, 2000, Allen DeMauro, an investigator with the New Jersey Division of Consumer Affairs Enforcement Bureau served a subpoena on the New Jersey Manufacturers Insurance Company seeking any and all claims submitted by the respondent after April 30, 1997.

3. The New Jersey Manufacturers Insurance Company forwarded patient CB's records to the New Jersey Division of Consumer Affairs Enforcement Bureau on August 24, 2000.

4. The records reveal that CB was, in fact, treated by the respondent at Advanced Rehabilitation, Inc. and North Jersey Trauma Center beginning on March 20, 2000. The respondent's treatment of CB included therapeutic exercises, therapeutic activities, muscle tests, chiropractic adjustments and range of motion exams until her apparent discharge on May 26, 2000.

5. On or about April 22, 2000 the Respondent referred CB for an MRI to Open MRI of Fairview County.

6. On April 22, 2000, the respondent referred CB to Nazar H. Haidri, M.D. for a neurological exam.

7. Requests for payment for services rendered to CB were made by the respondent.

8. Respondent's care and chiropractic treatment of GPS while his license to practice chiropractic was actively suspended, by Board Order, constitutes the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense in violation of N.J.S.A. 45:1-21(b); constitutes a failure to comply with the provisions of any act or regulation administered by the Board in violation of N.J.S.A. 45:1-21(h); constitutes gross or repeated acts of malpractice in violation of N.J.S.A. 45:1-21 (c) and (d); constitutes repeated acts of professional misconduct

pursuant to N.J.S.A. 45:1-21(e); and constitutes a violation of the Duty to Cooperate regulation pursuant to N.J.S.A. 13:45C-1.4.

COUNT VI

1. Complainant repeats and realleges all allegations set forth in the General Allegations to the Complaint and in the other Counts of this Complaint as if set forth herein.

2. On or about August 30, 2000, Allen DeMauro, an investigator with the New Jersey Division of Consumer Affairs Enforcement Bureau served a subpoena on the First Trenton Companies seeking any and all claims submitted by the respondent after April 30, 1997.

3. The First Trenton Companies forwarded patient FB's records to the New Jersey Division of Consumer Affairs Enforcement Bureau.

4. The records reveal that FB was, in fact, treated by the respondent at Advanced Rehabilitation, Inc. and North Jersey Trauma Center beginning on September 10, 1999. The respondent's treatment of FB included physical therapy, chiropractic adjustments, and therapeutic activities until his apparent discharge on April 3, 2000.

5. On or about September 11, 1999 the Respondent referred FB for an MRI to Open MRI of Fairview.

6. On January 29, 2000, the respondent referred FB to Nazar H. Haidri, M.D. for nerve conduction studies and to Clifford Botwin, D.O. for an orthopedic examination.

7. In or about April, 2000 the respondent informed Marilyn Dolan, Medical Unit Supervisor, First Trenton Companies, in a telephone conversation that he had personally treated FB and ordered the physical therapy to be carried out by a licensed practical nurse under his supervision.

8. Requests for payment for services rendered to FB were made by the respondent.

9. Respondent's care and chiropractic treatment of GPS while his license to practice chiropractic was actively suspended, by Board Order, constitutes the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense in violation of N.J.S.A. 45:1-21(b); constitutes a failure to comply with the provisions of any act or regulation administered by the Board in violation of N.J.S.A. 45:1-21(h); constitutes gross or repeated acts of malpractice in violation of N.J.S.A. 45:1-21(c) and (d); constitutes repeated acts of professional misconduct pursuant to N.J.S.A. 45:1-21(e); and constitutes a violation of the Duty to Cooperate regulation pursuant to N.J.S.A. 13:45C-1.4.

COUNT VII

1. Complainant repeats and realleges all allegations set forth in the General Allegations to the Complaint and in the other Counts of this Complaint as if set forth herein.

2. On or about August 30, 2000, Allen DeMauro, an investigator with the New Jersey Division of Consumer Affairs

Enforcement Bureau served a subpoena on the First Trenton Companies seeking any and all claims submitted by the respondent after April; 30. 1997.

3. The First Trenton Companies forwarded patient CU's records to the New Jersey Division of Consumer Affairs Enforcement Bureau.

4. The records reveal that CU was, in fact, treated by the respondent, himself, at Advanced Rehabilitation, Inc. and North Jersey Trauma Center beginning on September 10, 1999. The respondent's treatment of CU included physical therapy, chiropractic adjustments, therapeutic activities, muscle tests and range of motion tests until her apparent discharge on April 3, 2000.

5. On or about September 13, 1999 the Respondent referred CU for an MRI to Open MRI of Union County.

6. On January 8, 2000, the respondent referred CU to Nazar H. Haidri, M.D. for a physical exam. The respondent ordered an orthopedic examination for CU with Dr. Steven Nehmer.

7. In or about April, 2000 the respondent informed Marilyn Dolan, Medical Unit Supervisor, First Trenton Companies, in a telephone conversation that he had personally treated CU and ordered the physical therapy to be carried out by a licensed practical nurse under his supervision.

8. Requests for payment for services rendered to CU were made by a Dr. Joseph Montemurro, D.C along with the respondent.

9. Respondent's care and chiropractic treatment of GPS while his license to practice chiropractic was actively suspended, by Board Order, constitutes the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense in violation of N.J.S.A. 45:1-21(b); constitutes a failure to comply with the provisions of any act or regulation administered by the Board in violation of N.J.S.A. 45:1-21(h); constitutes gross or repeated acts of malpractice in violation of N.J.S.A. 45:1-21(c) and (d); constitutes repeated acts of professional misconduct pursuant to N.J.S.A. 45:1-21(e); and constitutes a violation of the Duty to Cooperate regulation pursuant to N.J.S.A. 13:45C-1.4.

COUNT VIII

1. Complainant repeats and realleges all allegations set forth in the General Allegations to the Complaint and in the other Counts of this Complaint as if set forth herein.

2. On or about August 30, 2000, Allen DeMauro, an investigator with the New Jersey Division of Consumer Affairs Enforcement Bureau served a subpoena on the First Trenton Companies seeking any and all claims submitted by the respondent after April 30, 1997.

3. The First Trenton Companies forwarded patient AU's records to the New Jersey Division of Consumer Affairs Enforcement Bureau.

4. The records reveal that AU was, in fact, treated by the respondent, himself, at Advanced Rehabilitation, Inc. and North

Jersey Trauma Center beginning on September 10, 1999. The respondent's treatment of AU included physical therapy, chiropractic adjustments, therapeutic activities, muscle tests and range of motion tests until her apparent discharge on April 3, 2000.

5. On or about September 11, 1999 the Respondent referred AU for an MRI to Open MRI of Union County.

6. On January 8, 2000, the respondent referred AU to Nazar H. Haidri, M.D. for a preliminary examination. On January 29, 2000, Dr. Haidri also performed an electromyographic examination.

7. In or about April, 2000 the respondent informed Marilyn Dolan, Medical Unit Supervisor, First Trenton Companies, in a telephone conversation that he had personally treated AU and ordered the physical therapy to be carried out by a licensed practical nurse under his supervision.

8. Requests for payment for services rendered to AU were made by a Dr. Joseph Montemurro, D.C. along with the respondent.

9. Respondent's care and chiropractic treatment of GPS while his license to practice chiropractic was actively suspended, by Board Order, constitutes the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense in violation of N.J.S.A. 45:1-21(b); constitutes a failure to comply with the provisions of any act or regulation administered by the Board in violation of N.J.S.A. 45:1-21(h); constitutes gross

or repeated acts of malpractice in violation of N.J.S.A. 45:1-21 (c) and (d); constitutes repeated acts of professional misconduct pursuant to N.J.S.A. 45:1-21(e); and constitutes a violation of the Duty to Cooperate regulation pursuant to N.J.S.A. 13:45C-1.4.

COUNT IX

1. Complainant repeats and realleges all allegations set forth in the General Allegations to the Complaint and in the other Counts of this complaint as if set forth herein.

2. On June 16, 1999 Investigator Tracy Alston, of the Division of Consumer Affairs Enforcement Bureau, acting in a covert capacity, visited the North Jersey Trauma Center and spoke with the respondent regarding potential treatment for "her cousin." The respondent informed Investigator Alston that he treats sports injuries and that he accepted some Health Maintenance Organization ("HMO") insurance.

3. During that same meeting the respondent gave Investigator Alston a business card, which read "North Jersey Trauma Center, Dr. Philip M. Potacco, C.C.S.P. Board Certified." The business card also provides the address and phone number of the North Jersey Trauma Center and in the top left corner of the card is a medical caduceus.

4. On August 18, 1999, Investigator Alston telephoned the respondent and asked him if he was a chiropractor, to which he replied "Yes" and that he was "Board Certified."

5. Investigator Alston told the respondent that she had a cousin who injured his knee and that he might need chiropractic adjustment. The respondent informed Investigator Alston that he would examine her cousin and set up a program for him. The respondent also suggested that other modalities such as ultra sound might have been necessary.

6. The respondent told Investigator Alston that he billed directly to insurance companies and that the initial office visit would take about forty-five (45) minutes.

7. Respondent's holding himself out as a chiropractor to Investigator Alston, by identifying himself as a chiropractor, providing Investigator Alston with a business card, and agreeing to treat a patient utilizing chiropractic methods, while his license to practice chiropractic, per Board Order, was actively suspended constitutes the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense in violation of N.J.S.A. 45:1-21(b); constitutes a failure to comply with the provisions of any act or regulation administered by the Board in violation of N.J.S.A. 45:1-21(h); constitutes repeated acts of professional misconduct pursuant to N.J.S.A. 45:1-21(e); and constitutes a violation of the duty to cooperate regulation pursuant to N.J.A.C. 13:45C-1.4.

COUNT X

1. Complainant repeats and realleges all allegations set forth in the General Allegations to the Complaint and in the other Counts of this Complaint as if set forth herein.

2. On March 23, 2000, the respondent appeared before the Board for an investigative inquiry and gave testimony under oath.

3. During the inquiry the Board specifically asked the respondent when he caused a sign to be erected at the North Jersey Trauma Center identifying the trauma center. The respondent answered three separate times with regard to the installation of a sign at the North Jersey Trauma Center and his answers specified November, 1999, December, 1999 or January, 2000. Investigators Alston and DeMauro observed the identifying sign on June 3, 1999, prior to any dates acknowledged by respondent.

4. During the inquiry the Board specifically asked the respondent if he identified himself as a chiropractor or Doctor during his period of suspension. The Respondent denied that he identified himself as either during his period of suspension. On August 18, 1999 during a covert telephone conversation, Inspector Alston called the respondent's office and the respondent answered the telephone "Doctor's Office" and Investigator Alston asked to speak with Dr. Potacco and the respondent answered that he was Dr. Potacco. Investigator Alston asked the respondent whether he was

a chiropractor. The respondent answered that he was a chiropractor and that he was Board certified.

5. During the inquiry the Board specifically asked the respondent, if he distributed his chiropractic business card to any member of the public during his period of active suspension. The Respondent denied distributing his business card and related that he had only produced it recently. On June 16, 1999 the respondent provided Inspector Alston with a business card during a covert visit which indicated North Jersey Trauma Center, Dr. Philip M. Potacco, C.C.S.P., Board Certified.

6. During the inquiry the Board specifically asked the respondent if he told anyone that he would accept insurance coverage from an HMO during his period of active suspension. The Respondent denied telling anyone that he would accept insurance coverage from an HMO during his period of active suspension. On June 16, 1999 the respondent informed Investigator Alston during a covert visit that he took insurance based on some HMO's and the HMO determined how much treatment would be received and again on August 18, 1999 the respondent informed Investigator Alston that he billed directly to the insurance company.

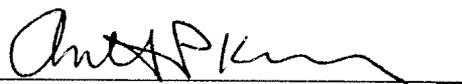
7. The respondent's false statements in response to the Board's questions during an investigative inquiry constitutes the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense in violation of

N.J.S.A. 45:1-21(b); constitutes a failure to comply with the provisions of any act or regulation administered by the Board in violation of N.J.S.A. 45:1-21(h); constitutes acts of professional misconduct pursuant to N.J.S.A. 45:1-21(e); and constitutes a violation of the duty to cooperate regulation pursuant to N.J.A.C. 13:45C-1.4.

WHEREFORE, Complainant demands judgment against Respondents as follows:

1. Permanent revocation of respondent's license to practice Chiropractic in the State of New Jersey.
2. Imposition of penalties for each separate and unlawful act;
3. Payment of costs including: investigative costs, fees for expert witnesses, attorney's fees, and costs of trial including transcripts;
4. Such other and further relief as the Board shall deem just and appropriate.

JOHN J. FARMER, JR.
ATTORNEY GENERAL OF NEW JERSEY

By: 
Anthony P. Kearns, III
Deputy Attorney General

DATED: November 17, 2000

JOHN J. FARMER, JR.
ATTORNEY GENERAL OF NEW JERSEY
Division of Law, 5th floor
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07102

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NOV 21 2000

NEW JERSEY BOARD OF
CHIROPRACTIC EXAMINERS

By: Anthony P. Kearns, III
Deputy Attorney General
Tel. (973) 648-7454

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF CHIROPRACTIC EXAMINERS

In the Matter of the Revocation of
the License of

PHILIP M. POTACCO, D.C.
LICENSE NO. MC-1657

To Practice Chiropractic
in the State of New Jersey

Administrative Action

NOTICE OF HEARING AND
NOTICE TO FILE ANSWER

TO: **PHILIP M. POTACCO, D.C.**
Through:
Bennett Wasserstrum, Esq.
Wasserstrum and Fabiano
3 Botany Village Square West
Clifton, New Jersey 07011

TAKE NOTICE that a Complaint, copy annexed hereto, has been made to the New Jersey State Board of Chiropractic Examiners ("the Board") to consider the matter of the revocation of your license to practice Chiropractic in the State of New Jersey pursuant to the authority conferred upon the Board by N.J.S.A. 45:1-14 et seq., N.J.S.A. 45:9-41.4 et seq. and related administrative regulations. The Board requires you to file answers

to the above charges within twenty (20) days from service of the Complaint. You may file an answer by mail to the address below.

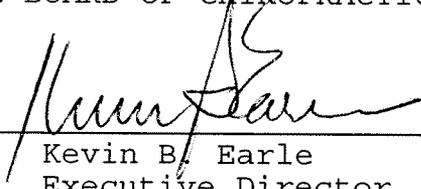
An admission that the Complaint is correct will indicate that you do not contest the charges stated, thus rendering unnecessary any hearing in this proceeding. Your case will then be presented to the Board together with any written matter you may submit with your plea in mitigation of penalty and whether monetary penalties shall be assessed and, if so, the amount thereof pursuant to the authority conferred upon the Board by N.J.S.A. 45:9-41.4 et seq. and N.J.S.A. 45:1-14 et. Seq.

A denial of the Complaint will result in a formal hearing being conducted before the Board at a time and place to be specified by the Board upon notice to you. You may appear at hearing either in person or by attorney or both and you shall be afforded an opportunity to make a defense to any or all of the charges.

Failure to respond to this Notice of Hearing and Notice to File an Answer or failure to appear as set forth herein will result in the matter being considered in your absence and a judgment by default. A Decision rendered by the Board may affect your privilege to practice your licensed profession in this State.

STATE BOARD OF CHIROPRACTIC EXAMINERS

By: _____


Kevin B. Earle
Executive Director

Dated: 11/21/2000

KINDLY ADDRESS AN ORIGINAL AND ONE COPY OF ALL CORRESPONDENCE TO:

Kevin B. Earle, Executive Director
NEW JERSEY STATE BOARD OF CHIROPRACTIC EXAMINERS
124 HALSEY STREET, 6TH FLOOR
P.O. BOX 45004
NEWARK, NEW JERSEY 07101

WITH A COPY TO:

JOHN J. FARMER, JR.
ATTORNEY GENERAL OF NEW JERSEY
Attention: Anthony P. Kearns, III
Deputy Attorney General
Division of Law, 5th Floor
P.O. Box 45029
Newark, New Jersey 07101
Tel: (973)-648-7454

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JAN 3 -

NEW JERSEY BOARD OF
CHIROPRACTIC EXAMINERS

WASSERSTRUM and FABIANO, P.C.
Three Botany Village Square West
Clifton, New Jersey 07011
(973) 546-3800
Attorneys for Respondent

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF CHIROPRACTIC EXAMINERS

IN THE MATTER OF THE REVOCATION OF THE
LICENSE OF PHILIP M. POTACCO, D.C.
LICENSE NO. MC-1657

TO PRACTICE CHIROPRACTIC IN THE
STATE OF NEW JERSEY

Administrative Action
ANSWER

The respondent, Philip M. Potacco, by way of answer to the
complaint filed by the Complainant, New Jersey State Board of Chiropractic
Examiners, says that:

AS TO COMMON ALLEGATIONS TO ALL COUNTS

1. He admits the allegations contained in Paragraphs One, Two and Three.
2. With respect to Paragraph Four, he admits to the fact that there was an Order filed by the New Jersey Board of Chiropractic Examiners on January 8, 1985, which speaks for itself, and leaves the Complainant to its proofs with respect to the balance of the paragraph.
3. With respect to Paragraph Five, he admits the fact that there was an Order filed by the New Jersey Board of Chiropractic Examiners on April 30, 1997, which speaks for itself, and leaves the Complainant to its proofs with respect to the balance of the paragraph.
4. He admits the allegations contained in Paragraph Six

AS TO COUNT ONE

1. He repeats his answers to the General Allegations to the Complaint and in the other Counts of the Complaint as though set forth fully and at length herein.

2. He has no knowledge or information as to the allegations contained in Paragraphs Two, Three, Four, Five, Six, Seven, Eight, Nine, Ten and Eleven, denies he was engaged in any treatments and leaves the Complainant to its proofs.

WHEREFORE, respondent seeks (1) dismissal of the Complaint in its entirety; (2) payment of all attorney's fees and costs required for the defense of this action; (3) reinstatement of the chiropractic license.

AS TO COUNT TWO

1. He repeats his answers to the General Allegations to the Complaint and in the other Counts of the Complaint as though set forth fully and at length herein.

2. He has no knowledge or information as to the allegations contained in Paragraphs Two, Three, Four, Five, Six, Seven, Eight, Nine, and Ten, denies he was engaged in any treatments and leaves the Complainant to its proofs.

WHEREFORE, respondent seeks (1) dismissal of the Complaint in its entirety; (2) payment of all attorney's fees and costs required for the defense of this action; (3) reinstatement of the chiropractic license.

AS TO COUNT THREE

1. He repeats his answers to the General Allegations to the Complaint and in the other Counts of the Complaint as though set forth fully and at length herein.

2. He has no knowledge or information as to the allegations contained in Paragraphs Two, Three, Four, Five, Six, Seven, Eight, Nine, and Ten, denies he was engaged in any treatments and leaves the Complainant to its proofs.

WHEREFORE, respondent seeks (1) dismissal of the Complaint in its entirety; (2) payment of all attorney's fees and costs required for the defense of this action; (3) reinstatement of the chiropractic license.

AS TO COUNT FOUR

1. He repeats his answers to the General Allegations to the Complaint and in the other Counts of the Complaint as though set forth fully and at length herein.

2. He has no knowledge or information as to the allegations contained in Paragraphs Two, Three, Four, Five, Six, Seven, and Eight, denies he was engaged in any treatments and leaves the Complainant to its proofs.

WHEREFORE, respondent seeks (1) dismissal of the Complaint in its entirety; (2) payment of all attorney's fees and costs required for the defense of this action; (3) reinstatement of the chiropractic license.

AS TO COUNT FIVE

1. He repeats his answers to the General Allegations to the Complaint and in the other Counts of the Complaint as though set forth fully and at length herein.

2. He has no knowledge or information as to the allegations contained in Paragraphs Two, Three, Four, Five, Six, Seven, and Eight, denies he was engaged in any treatments and leaves the Complainant to its proofs.

WHEREFORE, respondent seeks (1) dismissal of the Complaint in its entirety; (2) payment of all attorney's fees and costs required for the

defense of this action; (3) reinstatement of the chiropractic license.

AS TO COUNT SIX

1. He repeats his answers to the General Allegations to the Complaint and in the other Counts of the Complaint as though set forth fully and at length herein.

2. He has no knowledge or information as to the allegations contained in Paragraphs Two, Three, Four, Five, Six, Seven, Eight, and Nine, denies he was engaged in any treatments and leaves the Complainant to its proofs.

WHEREFORE, respondent seeks (1) dismissal of the Complaint in its entirety; (2) payment of all attorney's fees and costs required for the defense of this action; (3) reinstatement of the chiropractic license.

AS TO COUNT SEVEN

1. He repeats his answers to the General Allegations to the Complaint and in the other Counts of the Complaint as though set forth fully and at length herein.

2. He has no knowledge or information as to the allegations contained in Paragraphs Two, Three, Four, Five, Six, Seven, Eight, and Nine, denies he was engaged in any treatments and leaves the Complainant to its proofs.

WHEREFORE, respondent seeks (1) dismissal of the Complaint in its entirety; (2) payment of all attorney's fees and costs required for the defense of this action; (3) reinstatement of the chiropractic license.

AS TO COUNT EIGHT

1. He repeats his answers to the General Allegations to the Complaint and in the other Counts of the Complaint as though set forth fully

and at length herein.

2. He has no knowledge or information as to the allegations contained in Paragraphs Two, Three, Four, Five, Six, Seven, Eight, and Nine, denies he was engaged in any treatments and leaves the Complainant to its proofs.

WHEREFORE, respondent seeks (1) dismissal of the Complaint in its entirety; (2) payment of all attorney's fees and costs required for the defense of this action; (3) reinstatement of the chiropractic license.

AS TO COUNT NINE

1. He repeats his answers to the General Allegations to the Complaint and in the other Counts of the Complaint as though set forth fully and at length herein.

2. He has no knowledge or information as to the allegations contained in Paragraphs Two, Three, Four, Five, Six, and Seven, denies he was engaged in any treatments and leaves the Complainant to its proofs.

WHEREFORE, respondent seeks (1) dismissal of the Complaint in its entirety; (2) payment of all attorney's fees and costs required for the defense of this action; (3) reinstatement of the chiropractic license.

AS TO COUNT TEN

1. He repeats his answers to the General Allegations to the Complaint and in the other Counts of the Complaint as though set forth fully and at length herein.

2. He has no knowledge or information as to the allegations contained in Paragraphs Two, Three, Four, Five, Six, and Seven, denies he was engaged in any treatments and leaves the Complainant to its proofs.

WHEREFORE, respondent seeks (1) dismissal of the Complaint in

its entirety; (2) payment of all attorney's fees and costs required for the defense of this action; (3) reinstatement of the chiropractic license.

FIRST SEPARATE DEFENSE

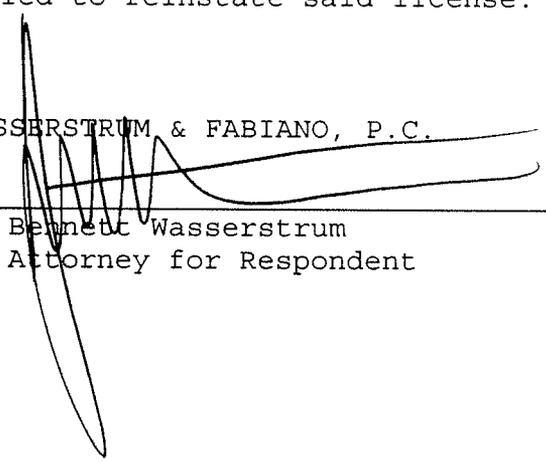
Complainant fails to set forth a claim upon which relief may be granted.

SECOND SEPARATE DEFENSE

Pursuant to the Order filed by the New Jersey Board of Chiropractic Examiners dated April 30, 1997, the respondent was permitted to seek the restoration of his chiropractic license ^{under the terms of the order.} ~~as of _____.~~ Although the respondent has fully complied with the Order and has repeatedly requested the reinstatement of his chiropractic license, the New Jersey Board of Chiropractic Examiners has failed to reinstate said license.

WASSERSTRUM & FABIANO, P.C.

By


Bennett Wasserstrum
Attorney for Respondent

its entirety; (2) payment of all attorney's fees and costs required for the defense of this action; (3) reinstatement of the chiropractic license.

FIRST SEPARATE DEFENSE

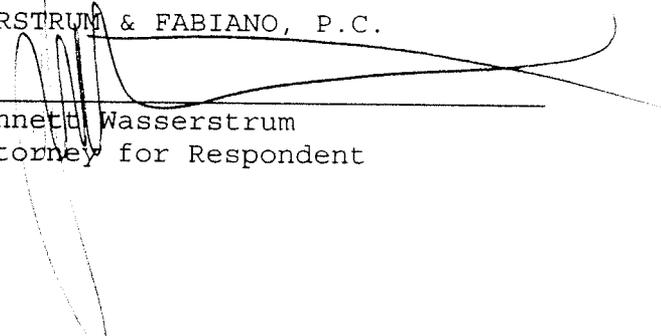
Complainant fails to set forth a claim upon which relief may be granted.

SECOND SEPARATE DEFENSE

Pursuant to the Order filed by the New Jersey Board of Chiropractic Examiners dated April 30, 1997, the respondent was permitted to seek the restoration of his chiropractic license. Although the respondent has fully complied with the Order and has repeatedly requested the reinstatement of his chiropractic license, the New Jersey Board of Chiropractic Examiners has failed to reinstate said license.

WASSERSTRUM & FABIANO, P.C.

By


Bennett Wasserstrum
Attorney for Respondent

DATED: January 2, 2001.