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A TRUE COPY

STATE OF NEW JERSEY
DEPT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF PSYCHOLOGICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION)
OR REVOCATION OF THE LICENSES OF
ALLEN P. BLASUCCI, Psy.D.
LUIS R. NIEVES, Psy.D.
TO PRACTICE PSYCHOLOGY
IN THE STATE OF NEW JERSEY)

ADMINISTRATIVE ACTION

APPENDIX IN SUPPORT OF ORDER TO SHOW CAUSE
SUBMITTED ON BEHALF OF COMPLAINANT ATTORNEY GENERAL

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On the Brief



State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PSYCHOLOGICAL EXAMINERS
124 HALSEY STREET, 6TH FLOOR, NEWARK NJ

CHRISTINE TODD WHITMAN
Governor

JOHN J. FARMER, JR.
Attorney General
MARK S. HERR
Director

I, Paul C. Brush, hereby certify as follows:

- 1. I am the Executive Director of the New Jersey State Board of Psychological Examiners and I am the official custodian of the Board files.
2. On may 11, 1998 The Board entered and filed a Final Decision and Order in the disciplinary proceedings, Matter of Allen P. Blassuci, PsyD and Luis R. Nieves, PsyD., OAL Docket No.BDS 2394-96. By the terms of the Order, pp.28-34, the licenses of Dr. Blassuci and of Dr. Nieves were each suspended for three years, the first six months of which were to be an active suspension commencing June 7, 1998, with the remainder stayed as a period of probation on condition that all other requirements were met. The Order assessed costs of \$11,033.00 to both respondents jointly and severally. The costs were to be paid in full by June 7, 1998. Dr. Blassuci was assessed a civil penalty of \$16,500 and Dr. Nieves was assessed a civil penalty of \$15,000. Each was permitted to pay the penalty in monthly installments commencing July 1998.
3. Records of the Board reflect that the costs were paid in full. However, Dr. Blassuci has paid \$2,000 toward his penalty, leaving a balance due of \$14,500. Dr. Nieves has paid \$2,000 toward his penalty, leaving a balance due of \$13,000. A Certificate of Debt has been filed as to each person.
4. On May 15, 2000, the attorney for respondents requested the Board to waive the remaining penalties. By letter of July 27, 2000, the Board denied the request to reduce or waive the penalties.
5. No further payments have been made by either respondent.

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I certify that all of the foregoing statements made by me are true, based upon the records of the above matter on file in the Board office. I am aware that if any of the above statements made by me are wilfully false, I am subject to punishment.

Paul C. Brush
Executive Director

October 5, 2000
Date

Exhibit A

CERTIFIED TO BE
A TRUE COPY

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PSYCHOLOGICAL EXAMINERS
OAL DOCKET NO. BDS 2394-96

IN THE MATTER OF THE)
SUSPENSION OR REVOCATION)
OF THE LICENSE OF)
ALLEN P. BLASUCCI, Psy.D.)
-and-)
LUIS R. NIEVES, Psy.D.)
TO PRACTICE PSYCHOLOGY)
IN THE STATE OF NEW JERSEY)

Administrative Action
FINAL DECISION AND ORDER

FILED WITH THE BOARD OF
PSYCHOLOGICAL EXAMINERS
ON May 11, 1998

This matter was brought before the New Jersey State Board of Psychological Examiners ("Board") on January 22, 1996, on the complaint of Deborah T. Poritz, then Attorney General of New Jersey, by Joan D. Gelber, Deputy Attorney General, demanding, among other relief, the suspension or revocation of the license of Allen P. Blasucci, Psy.D. and Luis R. Nieves, Psy.D. (sometimes referred to herein jointly as "respondents" or individually as "Blasucci" or "Nieves"). Count I alleged that respondents engaged in certain unlawful conduct in connection with contracts commencing in or about 1990 between the New Jersey Division of Youth & Family Services (DYFS) and "Therapeutic Alternatives" (TA), a non-profit community agency wholly owned by the respondents for the purpose of providing a comprehensive service program of a psychological nature for adolescents under the jurisdiction of DYFS. The apparent underlying purpose of the contracts between TA and DYFS was to provide psychological and related services designed to avoid the

Exhibit B

necessity of placing adolescent DYFS clients in residential placements located outside of their communities. Specifically, Count I, paragraph '6, alleged that respondents failed to engage sufficient "respite homes" to assure safe temporary habitation for the adolescent clients. Paragraph 7 alleged that respondents failed to properly screen and train "respite home" personnel in order to assure the presence of regular adult supervision. Paragraph 8 alleged that respondents failed to devote the amount of time required by the DYFS contracts at the program sites. Paragraph 9 alleged that respondents failed to provide regular, adequate and competent training and supervision to their employees. Paragraph 10 alleged that the respondents withheld from the staff timely availability of the authorized DYFS financial resources needed to deliver services to clients. Paragraph 11 alleged that the respondents directed employees to fabricate documentation and records of events in connection with the treatment of clients. Paragraphs 12 through 14 alleged various misconduct in connection with the respondents' professional activities related to particular cases and clients of TA. Paragraph 15 alleged that respondents failed to take disciplinary action against an employee in connection with services rendered to a DYFS client. Paragraph 16 alleged that respondents reported an inflated number of hours actually spent on DYFS matters. Paragraph 17 alleged that the respondents misrepresented to DYFS the salaries of TA staff. Paragraph 18 alleged that respondents failed to make a refund to DYFS of funds paid to TA for the salary of an employee who had been

terminated. Paragraph 19 alleged that Nieves engaged in a conflict of interest through the hiring of his daughter at TA. Paragraph 20 alleged the use of a DYFS-funded site for the personal benefit of the respondents and/or their employees in their private practices.

Count II of the complaint centered on financial improprieties. Paragraph 3 alleged violations of Board regulations in connection with the payment of respondents' supervisees. Paragraph 4 alleged misconduct in connection with the failure to pay employees the amount represented in the DYFS contract. Paragraph 5 alleged that respondents failed to adequately monitor the financial integrity of State-funded programs. Paragraph 6 alleged that respondents directed staff not to record cash payments made by certain clients. Paragraph 7 alleged that respondents directed staff to place cash receipts in a secret location. Paragraph 8 alleged that respondents directed staff to bill insurance carriers for fees higher than those actually charged to the insured clients.

Count III of the complaint centers on the exploitation of employees and supervisees. Paragraph 3 alleged that respondents engaged in conduct constituting sexual harassment and sexual advances. Paragraph 4 alleged that Blasucci engaged in the use of profanity, including inappropriate and humiliating remarks, constituting a hostile work environment. Paragraph 5 alleged that the respondents misrepresented the financial terms of employment to their supervisees. Paragraph 6 alleged that the respondents directed employees not to give certain clients the full number of

therapy sessions to which they might be entitled pursuant to their insurance plan. Paragraph 7 alleged that the respondents failed to pay certain supervisees for professional services rendered. Paragraph 8 alleged that respondents allowed the use of a DYFS-funded site for employees' private practices. Paragraph 9 alleged the improper administration and use of psychological tests. Paragraph 10 alleged a failure by the respondents to maintain the confidentiality of psychological test results. Paragraph 11 alleged that respondents allowed clerical assistants to score and interpret tests. Paragraphs 12 and 13 alleged that Nieves improperly used information obtained from his supervisees for his own personal financial benefit and subsequently abandoned these supervisees. Paragraph 14 alleged that respondents engaged in false and misleading conduct by advertising their practice on a sign as "Neuropsychological Institute." Paragraph 15 alleged that respondents directed employees to seek information from competitors through subterfuge in order to gain confidential business information. Paragraph 16 alleged that Nieves engaged in retaliatory conduct against former supervisees. Paragraph 17 alleged that respondents engaged in retaliatory conduct against former employees after they had filed a civil suit.

Count IV of the complaint centers on conduct engaged in by Blasucci only. Paragraph 2 alleged that Blasucci engaged in dual relationships, including sexual relationships, with clients and an employee. Paragraph 3 alleged that Blasucci engaged in drinking alcohol on the office premises in the presence of office

staff and/or clients. Paragraph 4 alleged that Blasucci failed to submit a timely and adequate supervisor's report for a supervisee.

PROCEDURAL HISTORY SUMMARY

The respondents requested hearings in order to defend on the allegations in the administrative complaint. Accordingly, the Board declared the matter a contested case and transferred the case to the Office of Administrative Law (OAL). The case was assigned to Administrative Law Judge Jeff S. Masin who conducted a pre-hearing on May 23, 1996 and hearings on the complaint on October 21, 22, 23, 28, 29, November 19, 20, 21, 25, 26, and December 3, 4, 5, 6, 9 and 11, 1996. The record closed on March 20, 1997, and the Initial Decision of Judge Masin was issued on July 23, 1997.

Exceptions to the Initial Decision were filed with the Board by Steven Blader, Esq., counsel for the respondents, and DAG Gelber in September 1997. The matter then was scheduled for a hearing before the Board in order to render a final decision at its meeting of October 27, 1997.

On October 20, 1997, the Board received an application submitted by Christopher R. Barbrack, Esq., newly retained counsel on behalf of Dr. Blasucci, requesting that the Board reject the findings and conclusions of Judge Masin or grant a new trial on the basis of Judge Masin's prior participation in a matter concerning another administrative law judge which Blasucci alleged required the disqualification of Judge Masin. In view of the fact that the Board had not yet rendered a final decision, and it appearing that the application on behalf of Blasucci was interlocutory, the Board

determined to remand Blasucci's application concerning the disqualification of Judge Masin to the Office of the Director of the OAL for review and decision making. On November 21, 1997, Chief Administrative Law Judge Barbara Harned issued a Decision and Order denying Blasucci's motion for recusal of Judge Masin and for a new trial.

Thereafter, the Board scheduled the matter for a public hearing on the Exceptions to the Initial Decision and for mitigation pertaining to penalty, if necessary, on January 12, 1998. On that day the parties appeared before the Board. Joan D. Gelber, DAG, appeared on behalf of the Attorney General. Steven Blader, Esq., appeared on behalf of the respondents in regard to the Exceptions to the Initial Decision. Christopher Barbrack, Esq., appeared on behalf of Blasucci in regard to the penalty phase of the proceeding, and Warren Wilentz, Esq., appeared on behalf of Nieves in regard to the penalty phase of the proceedings. Board Member Susan Edwards, Ph.D., recused herself from participation in the proceedings. Subsequent to oral argument by DAG Gelber and Mr. Blader, the Board moved into Executive Session in order to deliberate on the liability of the respondents for the allegations in the complaint.

The Board conducted its deliberations and returned to Public Session to announce its decision. The Board advised the parties that it had not completed its deliberations. Further, the Board determined to augment the record in regard to the allegations in Count IV, paragraph 2 of the complaint, specifically in regard

to the allegation that respondent Blasucci had a sexual relationship with a patient. Accordingly, the Board scheduled a hearing in this matter for March 2, 1998, at which time testimony was to be taken from respondent Blasucci, witness Jacqueline Decker, and the patient in question.

The hearing to augment the record was held on March 2, 1998. DAG Gelber appeared on behalf of the Attorney General. Mr. Blader and Mr. Barbrack appeared on behalf of the respondents. Subsequent to all testimony, the Board moved into Executive Session to deliberate on the liability of the respondents for all of the allegations in the administrative complaint. The Board was unable to complete its deliberations on this date and continued such deliberations on April 6, 1998. The Board reached a decision on the liability phase of its deliberations and moved into Public Session in order to announce its decision.

Thereafter, a public hearing in mitigation of penalty was scheduled for April 27, 1998. Mr. Blader appeared on behalf of the respondents, Mr. Barbrack appeared on behalf of Blasucci, and Mr. Wilentz appeared on behalf of Nieves. DAG Gelber appeared on behalf of the Attorney General. Each party made an oral presentation to the Board in regard to mitigating and/aggravating circumstances and appropriate penalty. The Board then moved into Executive Session for its final deliberations on the matter in order to determine the imposition of penalty.

After due consideration of the Administrative Law Judge's Initial Decision, hearing transcripts, documentary evidence,

exceptions, oral argument, supplemental hearing testimony, and other mitigating evidence submitted for a determination of penalty, the Board of Psychological Examiners makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

Judge Masin's Initial Decision was issued on July 23, 1997, and it is incorporated herein by reference as if fully set forth, except as it is specifically modified by this Order. Amendments to the Initial Decision involving typographical and minor clerical corrections are incorporated as an Appendix to this Final Decision. Some of these corrections were noted by DAG Gelber subsequent to the issuance of the Initial Decision, and some were noted and acknowledged by Judge Masin. None of the corrections were material to the substantive Findings of Fact adopted herein.

Judge Masin provided the Board with a 173-page Initial Decision which comprehensively and meticulously set forth the testimony and documentary evidence adduced at the hearings in the matter and the ALJ's discussion and legal analysis of the allegations including a summary of the disposition of the charges and a recommendation for penalties and sanctions. The Board adopts all of the Findings of Fact set forth in Judge Masin's Initial Decision at pages 2 to 108, including his findings with respect to the credibility of witnesses, as if they were fully set forth herein with one express exception. In regard to the allegation in Count IV, paragraph 2, of the complaint, which alleged that Blasucci engaged in sexual relations with a patient, Judge Masin

found that the evidence that a sexual relationship existed between Blasucci and his patient was convincing. In order to make this finding, Judge Masin relied upon evidence which he acknowledged was admittedly limited and largely circumstantial. This evidence included the fact that the patient was not charged for visits, although Judge Masin also acknowledged that this in and of itself did not indicate an improper relationship because there may have been legitimate reasons for not charging the patient. There also was evidence that Blasucci admitted to witness Mason that a "personal" relationship existed between him and the patient although the Judge acknowledged that such an admission did not necessarily connote a sexual relationship. The more compelling evidence for Judge Masin was the fact that witness Decker, an office manager at TA, observed Blasucci in a disheveled state when she delivered coffee to his private office when the patient was in the room. Further, Judge Masin was persuaded by the testimony of witness Decker that Blasucci admitted the sexual nature of the relationship during a "truth or dare" game at a bar which Judge Masin found arguably to constitute a statement against Blasucci's interest and therefore competent evidence. Judge Masin specifically states in his Initial Decision as follows:

... While the full extent of this relationship [with the patient] in terms of its frequency and duration cannot be ascertained from the evidence in this record; nevertheless, I am convinced that it occurred and the doctor and [the patient] lied when they denied that they had been intimate. I specifically find that Ms. Decker truthfully related the events at the restaurant and that Dr. Blasucci did admit to her that the sexual relationship with his

patient existed. Given the other evidence of the doctor's sexual activities and his willingness to openly discuss sexual matters, relationships, and to both use his voice to say things to his employees that a more discreet and reserved man might well not say, including his use of profanity, even of demeaning and abusive terms toward employees, and his willingness to incorporate and co-opt Ms. Mason into the planning for his romantic and sexual liaisons, the fact that he would openly discuss and admit his sexual relationships, even with a patient, is not that surprising. I conclude that Dr. Blasucci did violate N.J.A.C. 13:42-10.9(a) [Board regulation prohibiting sexual relationships with a client]
[Initial Decision 154]

The Board held a supplemental hearing on this issue in order to augment the record because the Board members were concerned with the circumstantial nature of the evidence and the significance and consequences of a finding that a licensed psychologist engaged in a sexual relationship with a patient. The Board reviewed the transcripts of the pertinent testimony on this issue and found it necessary to expand the record.

At the supplemental hearing held on March 2, 1998, Dr. Blasucci testified that he had been seeing this patient in individual psychotherapy from 1980 to 1995. She was originally diagnosed with major depression with panic attacks. The Board was disturbed by the fact that Blasucci kept no notes concerning this patient after 1984. However, Blasucci testified that he often took no notes in cases where individual psychotherapy was ongoing for a long period of time. Blasucci also referred this patient to a psychiatrist for psychopharmacological treatment. Initially the

patient paid for Blasucci's psychological services by personal check and later obtained insurance reimbursement. At some point, she stopped paying, and Blasucci agreed to continue seeing her without charge. He asserted that he sees numerous patients, including men and women, without charge when necessary. The patient was seen frequently by Blasucci; she was hospitalized several times in the period 1987 to 1993 and had a dysfunctional family situation which climaxed in 1993 with a separation from her husband and financial ruin which forced her to sell her home. Blasucci testified that the patient still sees a psychiatrist for medication but has become stabilized and is functioning adequately. He has not seen her since 1995 but speaks to her on the telephone with some frequency for advice, support and information.

Blasucci acknowledged that he may have touched the patient at some time but never in a sexual way. He denied that he ever told anyone that he had a sexual relationship with this patient. He testified that during the "truth or dare" game at a restaurant/bar located across the street from TA's office, he was drinking martinis with employees Decker and Morfino. He acknowledged that their conduct was improper in that he engaged in kissing with the two women at the bar and also admitted engaging in some sexual activity with Morfino in the parking lot after leaving the bar. Blasucci denied that he ever engaged in a sexual relationship with any patient. He admitted a sexual relationship with Wendy Matthews, a former supervisee, and with Ms. Morfino, a

secretary at TA. He acknowledged that the relationships were ill-advised, improper, and immoral:

The patient testified to the Board and outlined the history of her psychological treatment by Blasucci which largely corroborated Blasucci's testimony. The patient denied that any impermissible touching or sexual relationship ever existed between her and Blasucci. She advised the Board that there came a time when she could not afford therapy and had no insurance, and those were the reasons why Blasucci did not charge her for therapy sessions. The patient also testified that she stopped seeing Blasucci in 1995. Her life stabilized and she became employed. She stated that she speaks on the telephone to Blasucci periodically about her problems. The patient also testified that she never saw Blasucci at any other location besides his office.

Witness Jacqueline Decker testified that she was employed as an office manager at TA from February 1992 until October 1993. She admitted, however, that she was untruthful about the resume she submitted in order to obtain this employment. She stated that she learned from another employee that there was to be no charge for therapy sessions for the patient at issue, and she did not recall any other patient for whom there was no charge. Ms. Decker testified in regard to an incident when she brought coffee to Blasucci's office while the patient was having a therapy session. He came to the door looking embarrassed, and she testified that his tie was loose and one or more shirt buttons were undone. Ms. Decker also testified to the circumstances surrounding the "truth

or dare" game at the bar. She went to this bar for a drink with Ms. Morfino, and Ms. Decker called Blasucci at the office to invite him over to have drinks with them. She acknowledged that they were all drinking, and she also was aware that Ms. Morfino was having an affair with Blasucci. She testified that Blasucci admitted during the "truth or dare" game that he had a sexual relationship in years prior with the patient and considered leaving his wife for her, but that would not happen. Ms. Decker stated that Blasucci was flirtatious and he liked blondes. At one point during the evening, Ms. Decker said to Blasucci, "[i]f you need a hug, I'll give you a hug," and he kissed her with an open mouth. She stated that she pushed him away angrily.

The Board recalled Blasucci in order to address some of the facts presented during Ms. Decker's testimony. In regard to the coffee incident, Blasucci stated that Ms. Decker did not knock on the door but simply walked into his office. She claimed not to have known that a patient was with him. He claims that he was sitting on a loveseat in the office, and the patient was sitting on a sofa diagonally across from him. He stated that Ms. Decker was lying about the incident. He reprimanded her afterwards for entering his office when his door was closed which would indicate that he was in session with a patient. Blasucci testified that he could not understand Ms. Decker's motivation for lying because he had always treated her well. He told the Board that he gave her money when she was in trouble and that he had taken care of her and protected her. On cross-examination, DAG Gelber elicited the fact

that this was the first time that Blasucci told this version of the coffee incident. Although he had had ample opportunity to present this testimony at the hearings held at the OAL, he did not do so. The testimony also disclosed that Blasucci talked to Ms. Decker about his sexual relationship with fellow employee Ms. Morfino.

The Board reviewed the entire record concerning the issue of whether Blasucci had a sexual relationship with a patient including all of the testimony and documentary evidence adduced at the OAL and that presented at the supplemental hearing on March 2, 1998. Although the Board acknowledged the cumulative effect of the evidence concerning Blasucci's sexual relationships with other women including a former supervisee and an office employee, buttressed by evidence of intemperate use of alcohol and abusive use of demeaning sexual language in the office, a majority of the Board found after lengthy deliberation that there was not a sufficient factual basis to support a finding by a preponderance of the evidence that Blasucci engaged in a sexual relationship with a patient. Board Members Dr. Roy and Dr. Patterson agreed with Judge Masin's finding of fact in regard to this issue and did not support the majority finding that the allegation of a sexual relationship with a patient could not be sustained in regard to respondent Blasucci.

CONCLUSIONS OF LAW

The Board adopts all of the Conclusions of Law set forth in Judge Masin's Initial Decision at pages 109 to 157 as if they

were fully set forth herein with the following express modifications:

Count I, Paragraph 18 - This paragraph alleged that respondents failed to refund the amount of salary drawn against DYFS funds for an employee who had been terminated. Judge Masin found, and the evidence supported the fact, that ultimately the employee worked the necessary hours to cover the time represented by the check. Judge Masin also found that this conduct did not appear to constitute a significant deviation from professional standards in that there was no evidence that the respondents ever intended to keep the profit if the employee refused to perform the work. However, Judge Masin found that this matter was not properly handled and did represent a degree of unprofessional conduct which "frankly, does not really appear to merit the consideration of the Board, but might best be addressed in the context of a decision on whether the respondents retained the ERTC contract in the future." (Initial Decision at 151). Notwithstanding this finding, Judge Masin concluded that the respondents' handling of the situation was less than professional and as such the charge should be sustained. Although the Board agrees with Judge Masin's findings of fact, the Board does not find that the respondents' conduct in connection with this employee and the retention of DYFS funds constituted professional misconduct for purposes of disciplinary sanction. Therefore, the Board concluded that this allegation should be dismissed.

Count II, Paragraph 3 - This paragraph alleged that the respondents sought to induce employees or consultants to pay to the respondents up to 50% or more of the monies earned by the employees in their separate professional practices and to which the respondents were not entitled. This allegation entailed an interpretation of the Board's regulation at N.J.A.C. 13:42-4.6(b) and (c) concerning the financial arrangements between a supervisor and supervisee. Section (b) requires that financial arrangements between the supervisor and supervisee "shall be reasonable" and may take into account the special teaching arrangement which forms the context of the relationship. Section (c) requires the supervisor to charge the supervisee separately for the supervision itself and for ancillary costs such as rent for use of premises, equipment, malpractice insurance, etc. Since there was no evidence of separate billing for ancillary charges, Judge Masin agreed with the allegation of the Attorney General that a fee split approaching 50% was unreasonable. The Board concludes, however, that without evidence of ancillary charges it is not possible to determine whether 50% represents a reasonable apportionment. Accordingly, the Board dismisses the violation of N.J.A.C. 13:42-4.6(b) but concludes that there is a clear violation of N.J.A.C. 13:42-4.6(c).

Count III, Paragraph 9 - This paragraph alleged that the respondents authorized or condoned the administration of photocopied psychological tests to clients, to the hosts of potential "respite homes," and to potential employees by unlicensed staff and further allowed the test to be performed outside of the

supervision of a qualified person. Judge Masin dismissed these allegations primarily on the basis of instructions contained in the MMPI test's Manual for Administration. Although the Board acknowledges that a psychologist may permit a client to take home a copy of the MMPI for completion, it is recommended that the test be completed "whenever possible" in the "professional atmosphere of the clinician's office," (Initial Decision at 142). Although this may involve an issue of convenience, the determination to permit a client to take the test home assumes that the psychologist has exercised professional judgment that it is appropriate in the circumstances of a particular client. The evidence adduced at the hearing at the OAL indicated that copies of the MMPI were handed out to potential hosts of "respite homes" and that only about one out of three of these tests ever came back. "[T]he rest were never seen again." (Initial Decision at 66). According to the testimony at the OAL, the respondents permitted the test to be taken to unsupervised sites purely for convenience, and there is no indication that the respondents made any effort to follow up with the testees to find out what happened to these take-home tests. The Board concludes that the aforementioned conduct constitutes repeated acts of negligence by the respondents.

Count III, Paragraph 14 - This paragraph alleged that the respondents advertised as an entity entitled "Neuropsychological Institute" although the respondents employed no regular staff psychologists with neuropsychological training. Judge Masin concluded that the failure of the respondents to remove the sign

despite the fact that no neuropsychologists were employed on the staff was not intended to mislead anyone, and there was no evidence that any consumer was in fact misled. However, the Board's advertising regulation at N.J.A.C. 13:42-9.7 prohibits the use of any advertising which is false, fraudulent, misleading or deceptive with regard to the performance of professional services or accepted standards of professional practice. The Board concluded, on the basis of the facts presented, that the use of a sign advertising an entity called "Neuropsychological Institute" violates its regulation because it is in fact false, fraudulent, misleading or deceptive in circumstances where no neuropsychologist is employed on the staff.

Count IV, Paragraph 2 - As discussed above in this Order pertaining to the Board's Findings of Fact, a Board majority decided to dismiss the allegation that Blasucci engaged in a sexual relationship with a patient. This conclusion will be reflected as well in the modification of Judge Masin's recommended penalty for Blasucci. However, the Board adopts the findings and conclusions of Judge Masin in regard to the remaining allegations of paragraph 2 concerning the improper attempts by Blasucci to co-opt employee Mason in assisting with his sexual liaisons.

SUMMARY OF CONCLUSIONS OF LAW

COUNT I

¶6	Dismissed.
¶7	Dismissed.
¶8	Dismissed.
¶9	Sustained. (Gross and/or repeated acts of negligence; Professional misconduct. <u>N.J.S.A. 45:1-21 (c), (d), (e).</u>)

¶10 Dismissed.
¶11 Dismissed.
¶12 Dismissed.
¶13 Dismissed.
¶14 Dismissed.
¶15 Dismissed.
¶16 Dismissed.
¶17 Dismissed.
¶18 Dismissed.
¶19 Sustained. (Nieves only), (Professional misconduct.
N.J.S.A. 45:1-21(e).)

¶20 Dismissed.

COUNT II

¶3 Sustained. (Violations of N.J.A.C. 13:42-4.6(c).
N.J.S.A. 45:1-21(h).)

¶4 Dismissed.

¶5 Sustained. (Gross and/or repeated acts of
negligence; Professional misconduct
N.J.S.A. 45:1-21(c), (d), (e).)

¶6 Dismissed.

¶7 Dismissed.

¶8 Dismissed.

COUNT III

¶3 Dismissed. (Nieves).
Sustained. (Blasucci). (Violation of N.J.A.C.
13:42-10.9(c); Professional
misconduct.
N.J.S.A. 45:1-21(e), (h).)

¶4 Sustained. (Blasucci only). (Professional
misconduct.
N.J.S.A. 45:1-21(e))

¶5 Dismissed.

¶6 Dismissed.

¶7 Dismissed.

¶8 Dismissed.

¶9 Sustained. (Repeated acts of negligence.
N.J.S.A. 45:1-21(d).)

¶10 Sustained. (Repeated acts of negligence;
Professional misconduct. N.J.S.A.
45:1-21(d), (e).)

¶11 Dismissed.

¶12 Sustained. (Nieves only). (Professional
misconduct. N.J.S.A. 45:1-21(e).)

- ¶13 Sustained. (Nieves only). (Professional misconduct. N.J.S.A. 45:1-21(e).)
- ¶14 Sustained. (Violation of N.J.A.C. 13:42-9.7(a). N.J.S.A. 45:1-21(h).)
- ¶15 Dismissed.
- ¶16 Sustained. (Nieves only). (Professional misconduct. N.J.S.A. 45:1-21(e).)
- ¶17 Dismissed.

COUNT IV

- ¶2 Sustained. (Blasucci only). (Professional misconduct; Lack of good moral character. N.J.S.A. 45:1-21(e); N.J.S.A. 45:14B-14(b).)
- ¶3 Sustained. (Blasucci only) (Professional misconduct; Lack of good moral character. N.J.S.A. 45:1-21(e); N.J.S.A. 45:14B-14(b).)
- ¶14 Sustained. (Blasucci only). (Violation of N.J.A.C. 13:42-4.4(c), (e); N.J.S.A. 45:1-21(h).)

BOARD RESPONSES TO EXCEPTIONS OF THE PARTIES

DAG Gelber filed Exceptions to the Initial Decision concerning Judge Masin's dismissal of several counts pertaining to the respondents' performance of the contract provisions between TA and DYFS for the provision of psychological and related services. Specifically, DAG Gelber objected to the dismissal of the allegations concerning the failure of the respondents to spend adequate personal time at TA; the inadequate preparation and fabrication of patient records; the inflated hours of employees reported to DYFS; the personal use of DYFS-funded premises, material, etc.; and the failure to pay employees the full DYFS contract amount. The Board, however, is in agreement with the assessment of the evidence made by Judge Masin in regard to these issues. Many of them are contractual matters between the

respondents and DYFS, and a failure to adequately perform all provisions of such a contract do not necessarily rise to the level of sanctionable conduct by a licensing board. Further, some of the contract provisions are ambiguous or subject to interpretation, and the Board does not find that it is the role of the licensing board to engage in such interpretation. The Board also agrees with the ALJ that in several instances there was not a preponderance of the credible evidence to support the allegations. These issues were comprehensively assessed and presented by the ALJ in his findings of fact.

DAG Gelber also filed an Exception in regard to the allegations that the respondents were hiding cash receipts in a "secret location," in order to hide the amount of money the respondents received. Here too the Board agrees with Judge Masin's evaluation of the evidence presented which failed to demonstrate or support such serious allegations, and the Board also concluded that the respondents' conduct did not constitute professional misconduct or any other regulatory violation.

Exception also was taken by the Attorney General in regard to Judge Masin's dismissal of the allegations concerning retaliation by Dr. Nieves against certain former supervisees. The Board, however, also concurs with the ALJ that the charge of retaliation by Dr. Nieves should be sustained in regard to his conduct concerning supervisee Dr. Geller. There was not sufficient evidence to make such findings in regard to the other named supervisees.

Counsel for the respondents takes exception to the sustaining of the allegations concerning sexual harassment and hostile work environment. The Board found Judge Masin's assessment and evaluation of the testimony concerning the several allegations of sexual harassment and sexual advances very persuasive. Judge Masin provided the Board with an extensive summary of the testimony concerning these events, and the Board concludes that the ALJ's findings, based on the evidence and the credibility of witnesses, to be supported by more than a preponderance of the competent evidence. The conduct of both respondents in regard to the reported incidents is particularly reprehensible for practicing psychologists in this State who ought to be exquisitely sensitive to the effect of such conduct by virtue of their education and training.

Exception also was made in regard to the allegation that Blasucci engaged in professional misconduct and exhibited a lack of appropriate moral character in regard to his use of alcohol. The Board was not persuaded by his argument that although he enjoys a drink at lunch, "or when there is a large gap between clients," his use of alcohol at his professional premises does not establish professional misconduct since he has never been intoxicated in the office while seeing clients. The Board agrees with the assessment of Judge Masin that the use of alcohol by Blasucci, supported by the credible evidence at the hearing, did not indicate good moral character or proper professional conduct in the context of a

psychological practice where staff often suffered some degree of harassment as a result.

Other Exceptions filed by the parties have been addressed elsewhere in this Final Decision. The Board found other minor Exceptions to be adequately addressed by Judge Masin in his Initial Decision, and the Board has adopted his findings.

DISCUSSION

The parties appeared at a mitigation hearing on April 27, 1998. DAG Gelber appeared on behalf of the Attorney General. Mr. Barbrack appeared on behalf of Blasucci; Mr. Wilentz appeared on behalf of Nieves; and Mr. Blader appeared on behalf of both respondents. Counsel presented oral argument to the Board, and Blasucci and Nieves each testified in their own behalf. Blasucci also presented the character testimony of Father Francis Schiller who has worked with him in connection with drug/alcohol counseling in his Jersey City parish.

The respondents acknowledged some wrongdoing, but it appeared to the Board that there was little willingness to take full professional responsibility for the violations of law which occurred in the context of their psychological practice. Although they admitted some difficulty with boundaries, the use of alcohol, sloppy record keeping, and lack of financial acumen, they stated that they believed at the time that they were doing a good job and doing the right thing. The respondents also asked the Board to take into consideration that they have been working under the cloud of these allegations since the filing of the administrative

complaint and have lost reputation and felt shame in the professional community and, therefore, already had been severely punished.

DAG Gelber presented argument to the Board concerning the most egregious allegations which were sustained by Judge Masin and the Board. These included Blasucci's conduct in connection with sexual harassment, alcohol use and hostile work environment as well as the failure to adequately supervise employees. In regard to Nievès, DAG Gelber addressed his poor treatment and supervision of supervisees and the exploitation of and retaliation against such supervisees. DAG Gelber also addressed the failure of the respondents to monitor the finances of a State-funded program and the conduct of the respondents in ignoring the criticisms presented by their own accountants in the audits of the practice.

Upon review of the entire record in this matter, the Board finds itself in substantial agreement with ALJ Masin in regard to the evidence supporting the most egregious violations by the respondents. These concern the violation of trust reposed in the respondents as licensed practicing psychologists in their role as supervisors of unlicensed mental health care providers including applicants for licensure as psychologists. The Findings of Fact in this matter demonstrated an exploitation of inexperienced and untrained staff for the respondents' personal financial benefit. Further, the respondents used unlicensed and inexperienced staff to provide psychological and psychologically-related services through their wholly owned corporate entity, and yet the respondents failed

to provide any meaningful level of supervision or oversight for the provision of these services. To make matters worse, the context in which these psychological services were being provided was a State-funded DYFS contract for the purpose of treating high risk adolescents and their families.

When the respondents entered into the DYFS contract, they were pledging themselves professionally to a special trust. Although private patients also deserve the very best psychological services that can be provided by the Board's licensees, the children and adolescents who were the recipients of the psychological services provided by the respondents were an especially vulnerable population who required the services of professionals with experience and expertise in the field and utmost commitment to their unique needs. The evidence adduced in this case demonstrates, to a large extent, that the respondents exploited the circumstances to their own benefit by using the services of inexperienced staff who would not command the salaries of licensed professionals and then further failed to provide anything approaching adequate supervision for the provision of these services. The gross negligence of the respondents in regard to their professional responsibilities also included and was demonstrated by their failure to provide any adequate level of financial monitoring of a State-funded program and a failure to oversee the proper use and confidentiality of psychological test materials.

The conduct of Nieves as it pertained to his relationship with his supervisees is particularly egregious. His conduct clearly was unprofessional and unethical in that his exploitation of the services of supervisees and his subsequent abandonment and retaliation against at least one supervisee demonstrates to the Board that Nieves' sole motivation was for his own personal financial benefit.

The conduct of Blasucci in regard to the findings concerning sexual harassment, the use of profanity and the creation of a hostile work environment, the use of alcohol in the office, and the exploitation of staff in connection with his sexual relationships demonstrate a critical disregard for the level of moral character and professional conduct expected of all licensees of this Board.

These facts establish a pattern of negligence, professional misconduct, and lack of good moral character between a licensed practicing psychologist and his supervisees, his patients, and his professional staff. The Board is persuaded that the conduct of both respondents is flagrantly unprofessional and a gross deviation from any accepted standards for psychologists in their professional practice.

The respondents appear to maintain that they are the victims of persecution in these matters, that the Attorney General has overcharged in her complaint, and that, if anything, the respondents' only shortcoming was that they failed to realize at the time that they were not providing adequate services. They

also appear to blame the success of Therapeutic Alternatives and its rapid growth for the various violations which followed. Both respondents emphasize the suffering and devastation which they have experienced as a result of these allegations. However, neither respondent appears to recognize the impact of their conduct on the constellation of persons who were the real victims of their conduct including supervisees and patients.

The Board thoroughly considered the entire record before it. Notwithstanding the mitigating evidence presented by the respondents, the Board must take into account the serious nature of the significant violations of the law in this matter. The Board is charged with the regulation of its licensees for the purpose of protecting the patients who seek psychological services in this State. The authority to practice psychology is a privilege not to be taken lightly. The Board is particularly troubled by the fact that the respondents appear to fail to recognize the reprehensibility of their conduct. The Board's duty to the public to assure the health, safety and welfare of individuals who seek psychological services includes the Board's duty to assure confidence in the integrity and competence of its licensees. Considering the totality of the evidence before it, the Board must conclude that the Attorney General has demonstrated an unacceptable and unlawful course of conduct by these respondents over an extended period of time. Further, it is appropriate for this Board to discipline its licensees for conduct, such as the respondents', which clearly undermines the public's confidence in the

trustworthiness of the profession. Consequently, and for the foregoing reasons,

IT IS ON THIS 7th DAY OF MAY, 1998,

HEREBY ORDERED THAT:

1. The licenses of respondents Allen B. Blasucci, Psy.D. and Luis R. Nieves, Psy.D. to practice psychology in the State of New Jersey are hereby suspended for a period of three (3) years. The first six (6) months of the suspension will be active and the remaining two and a half (2 1/2) years of the suspension will be stayed and served as a period of probation. The effective date of the active period of suspension shall be thirty (30) days from the entry of the within Order. During the period of time in which respondents' licenses are actively suspended, they shall not own or otherwise maintain a pecuniary or beneficial interest in a psychological practice or function as a manager or operator of a place where psychological services are performed or otherwise practice psychology as defined in N.J.S.A. 45:14B-1 et seq. Further, respondents shall desist and refrain from furnishing professional psychological services, giving an opinion as to the practice of psychology or its application or any advice with relation thereto; from holding themselves out to the public as being entitled to practice psychology or in any way assuming to be a practicing professional such as a counselor, psychotherapist, psychoanalyst, therapist or other mental health care worker; or from advertising or writing in such a manner as to convey to the public the impression that they are legal practitioners or

authorized to practice psychology. This prohibition includes refraining during the period of active suspension from placement of any advertisement or professional listing in any advertising medium suggesting eligibility for practice or good standing. This prohibition further shall include the preparation of any report or appearance before any court or tribunal as an expert witness unless the case involves a matter handled prior to being disciplined and unless the status of the respondent is disclosed in writing to the person requesting such report or appearance.

2. Upon commencement of the active period of suspension, each respondent shall submit to the Board, in writing, a list of all private patients (identified by initials only) and an indication of the transfer or referral or other disposition for each private patient.

3. Respondents shall be assessed and shall be responsible jointly and severally for the costs to the State in this matter. The amount incurred through the termination of the proceedings at the OAL is \$11,033.00. The Executive Director shall compute the costs incurred by the Board during the subsequent hearings. The total costs shall be due and payable no later than thirty (30) days following the entry date of the within Order and shall be submitted to the Board by certified check or money order made payable to the State of New Jersey.

4. Respondent Blasucci shall be assessed a civil penalty of \$16,500.00, based on a charge of \$1,500.00 for each of the eleven violations attributable to him in whole or in part.

Respondent Nieves shall be assessed a civil penalty in the amount of \$15,000.00, based on a charge of \$1,500.00 for each of the ten violations attributable to him in whole or in part. The aforesaid penalties shall be submitted to the Board by certified check or money order made payable to the State of New Jersey no later than thirty (30) days from the entry date of the within Order. The respondents may elect to pay the total penalty in equal monthly installments over a period of no more than three (3) years commencing on the first day of the month following the entry date of the within Order. Each monthly installment shall be due and payable on the first business day of the month in the amount of \$458.33 for respondent Blasucci and \$416.67 for respondent Nieves. Any failure to make a monthly payment on time shall cause the entire remaining balance to become immediately due and payable.

5. The respondents' authority to practice psychology during the two and a half (2 1/2) years of probation following the six (6) month period of active suspension shall be expressly contingent upon strict compliance with the following terms and conditions:

(a) Respondents shall practice psychology only under the supervision of a New Jersey licensed psychologist approved by the Board. The respondents shall submit to the Board names of proposed supervisors (with copies of their curriculum vitae), and respondents shall not commence the practice of psychology until each has received written approval from the Board of one of the proposed supervisors. In the event either respondent

is unable to obtain a supervisor, he may request that the Board make recommendations for an approved supervisor. The respondents shall be limited in each of their practices of psychology to no more than ten (10) patient hours per week. Each respondent shall be required to obtain one hour of supervision for every five patient hours or any fraction thereof. Said supervision shall continue for the entire period of probation. Each respondent shall cause his approved supervisor to submit monthly reports to the Board during the first six months of supervision commencing the first day of the month following the written approval of the supervisor by the Board. The supervisor's report shall provide an informed evaluation of each respondent's patient treatment and professional practice. After the expiration of the first six months of the supervised period, the supervisor shall provide quarterly reports to the Board concerning the supervision of respondents' professional practices. In the event either respondent wishes to obtain any other employment in the practice of psychology in place of or in addition to the ten patient hours per week approved herein, he shall make express application to the Board in writing for approval prior to commencing any such employment.

(b) The respondents shall not be permitted to serve as the supervisor for any psychology license applicants nor as the supervisor, in its regular meaning, of any other mental health care providers.

(c) Random and unannounced audits of the respondents' patient records and billing records may be conducted by the Board's designees, at the Board's discretion and at the respondents' expense, during the period of probation. On reasonable demand made, the respondents shall immediately make available for review all records necessary to conduct the audit as determined by the Board or its designees. The cost of such audit shall be based on the standard hourly rate for the Board's investigators prevailing at the time of the audit and shall be due and payable within thirty (30) days of each respondent's receipt of such costs from the Executive Director of the Board.

(d) Respondents shall be required to successfully complete a course on professional ethics which has been approved by the Board. The respondents shall submit to the Board, in writing, a brochure or catalogue describing the course and shall not enroll in any course until they have received written approval from the Board. Said course shall be completed during the term of probation.

(e) The respondents shall develop and enforce strict confidentiality policies for the professional records maintained in their professional practices, including testing materials and information, and the respondents shall comply with all conflict of interest policies and regulations of the Board and shall not employ any relatives in their practices without the express prior permission of the Board.

(f) The respondents shall maintain and publicize in their professional practices a policy regarding the handling of complaints of sexual harassment. Each respondent shall submit to the Board, in writing, a copy of such policy and the method by which it is publicized within their respective offices.

(g) Respondent Blasucci shall be required to successfully complete a course designed to heighten awareness and handling of sexual harassment to be approved by the Board. Respondent Blasucci shall submit to the Board a brochure or catalogue describing such course, and he shall not enroll until he has received written approval from the Board for the course. Said sexual harassment course shall be completed during the term of probation.

6. It is expressly understood and agreed that continued licensure with restrictions as ordered herein is contingent upon strict compliance with all of the aforementioned conditions. Upon the Board's receipt of any information indicating that any term of the within Order has been violated in any manner whatsoever, a hearing shall be held on short notice before the Board or before its representative authorized to act on its behalf. The proofs at such a hearing shall be limited to evidence of the particular violation at issue and, if sustained, may cause the activation of the remaining period of probation or other appropriate penalty.

7. The respondents may apply for modification of the terms and conditions of the within Order no sooner than one (1) year from the entry date herein.

8. The record in this matter shall continue to be sealed in accordance with the Order entered by Judge Masin in the Initial Decision at pages 160 to 161. Said Order shall include any other documents and subsequent decisions of this Board as necessary in order to protect the identity and confidentiality of patients of the respondents whose names may appear in any such records and the minors who are under the supervision of the Division of Youth & Family Services.

NEW JERSEY STATE BOARD OF PSYCHOLOGICAL EXAMINERS

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

APPENDIX

Corrections to Initial Decision Issued July 23, 1997 by Jeff S. Masin, ALJ.

Page 37, second paragraph, second line, last word: "him" should be "her."

Page 40 first paragraph under "Ki.J.," second sentence, next to last word: "his mother" should be "her mother."

Page 73, third paragraph, fourth line: "quite" should be "quiet."

Page 76, fourth paragraph: "Angela Heller" should be "Karen Geller."

Page 99, first paragraph: "Andrea Heller" should be "Angela Heller."

Page 128, first paragraph, first line: "Geller" should be "Heller."

Evidence List:

C-64: The Board makes no determination whether this document was placed in evidence at the OAL hearing.

C-65: "form" should be "from." "Mr. Karen Geller" should be "Ms. Karen Geller."

C-78,79: The alphabetical letters attached to C-79 should be attached to C-78.

C-169 should include a voucher in the amount of \$6.00 from Freda Posner.



State of New Jersey
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PSYCHOLOGICAL EXAMINERS
124 HALSEY STREET, 6TH FLOOR, NEWARK NJ

CHRISTINE TODD WHITMAN
Governor

JOHN J. FARMER, JR.
Attorney General

MARK S. HERR
Director

July 25, 2000

Mailing Address:
P.O. Box 45017
Newark, NJ 07101
(973) 504-6470

Christopher R. Barbrack, Esq.
Princeton Corporate Center Suite 300
5 Independence Way
Princeton, NJ 08540

RE: IMO Drs. Allen Blasucci and Luis Nieves

Dear Mr. Barbrack:

At its June Agenda Meeting the Board discussed your correspondence requesting the removal of all practice limitations and to eliminate the remaining financial payments required of Drs. Blasucci and Nieves.

The Board voted to remove the supervision requirements but they cannot hire or supervise anyone. The Board voted not to waive the financial penalty. The Consent Order states that each monthly installment is due and payable on the first business day of each month. Any failure to make monthly payments on time shall cause the remaining entire balance to become immediately due and payable. The Board has not receive payments for the last ten (10) months. The money is now due and payable, if payment is not received it will be referred to the Attorney General's office.

If you have any questions regarding this matter please contact the Board office.

Very truly yours,

Paul C. Brush
Executive Director



Compliance For Allen P Blasucci, PsyD

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

From: Board Violation: (none)

Complaint #	Docket #	Cause #	State	Start	End	Action
Practicing Psychologist license #358100125400:						
416				06/11/1998	06/11/2001	Suspension-stay

New Delete



Compliance For Allen P Blasucci, PsyD

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

From: Board Violation: (none)

Complaint #	Docket #	Cause #	State	Start	End	Action
Practicing Psychologist license #358100125400:						
438				05/11/1998	05/11/2001	Fine/Penalty-actr
438				05/11/1998	06/11/1998	Cost

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Compliance For Luis R. Nieves, Psy.D.

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

From: Board Violation: (none)

Complaint #	Docket #	Cause #	State	Start	End	Action
Practicing Psychologist license #358100127500:						
415			NJ	05/11/1998	06/11/1998	Cost
415			NJ	05/11/1998	06/11/2001	Fine/Penalty-sta
415			NJ	06/11/1998	06/11/2001	Suspension-actr

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A TRUE COPY



State of New Jersey

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CHRISTINE TODD WHITMAN
Governor

JOHN J. FARMER, JR.
Attorney General

JEFFREY J. MILLER
*Assistant Attorney General
Director*

October 13, 2000

State Board of Psychological Examiners
124 Halsey Street, P.O. Box 45017
Newark, NJ 07101

Re: Matter of the Suspension or Revocation of License of Allen P. Blasucci, Psy.D.
and Luis R. Nieves, Psy.D.

Honorable Members of the Board:

This letter brief requests an Order activating the previously stayed suspension of the licenses of Dr. Allen P. Blasucci and of Dr. Luis R. Nieves based upon their failure to comply with a significant component of the Board's Final Decision and Order filed May 11, 1998, and imposing additional sanctions.

LIMITED PROCEDURAL HISTORY AND STATEMENT OF FACTS

Dr. Allen P. Blasucci and Dr. Luis R. Nieves are currently authorized to practice psychology in the State of New Jersey pursuant to a Final Decision and Order of the State Board of Psychological Examiners which imposed a suspension of the license of each of them and, among other conditions, required payment of financial penalties by each respondent, and stayed a portion of the suspension period on condition that each complied with all terms of the Order. Respondents have each failed to pay the full penalties. See Certification of Paul C. Brush, Executive Director of the State Board of Psychological Examiners (Exhibit A).

The disciplinary matter arose out of a Complaint filed by the Attorney General of New Jersey on January 22, 1996 alleging numerous violations of Board law and rule as to both Dr. Blasucci and

Dr. Nieves, each of whom was engaged in the practice of psychology in this State. Extensive hearings were conducted at the Office of Administrative Law, which issued an Initial Decision finding proofs of significant misconduct by each psychologist and recommending disciplinary sanctions. After further proceedings, a final hearing was concluded by the State Board of Psychological Examiners in April 1998 and the Board's Final Decision and Order was filed May 11, 1998 (Exhibit B).

The Board found both Dr. Blasucci and Dr. Nieves guilty of numerous professional improprieties, among which were violation of the trust reposed in them in their roles as supervisors of unlicensed mental health care providers including applicants for licensure as psychologists; exploitation of inexperienced and untrained staff for respondents' personal financial benefit; use of unlicensed and inexperienced staff to provide psychological and psychologically-related services through respondents' owned corporate entity "Therapeutic Alternatives" while failing to provide any meaningful level of supervision or oversight for the provision of the services, and engaging in such conduct in the context of a State-funded contract with the Division of Youth and Family Services (DYFS) for the purpose of treating high risk adolescents and their families; failure to provide adequate level of financial monitoring of the State-funded program; and failure to oversee the proper use and confidentiality of psychological test materials. See Order, Exhibit B.

The conduct of Dr. Nieves was found to be egregiously unprofessional and unethical, as discussed in detail in the Final Decision and Order.

Respondent Dr. Blasucci was found, in addition to the conduct summarized above, to have engaged in sexual harassment, use of profanity and creation of a hostile work environment, use of alcohol in the office, and exploitation of staff in connection with his sexual relationships demonstrating a critical disregard for the level of moral character and professional conduct expected of all licensees of this Board. The facts were found to demonstrate a pattern of negligence, professional misconduct, and lack of good moral character between a licensed practicing psychologist and his supervisees, his patients, and his professional staff. See Exhibit B.

The Board found that the conduct of both respondents was flagrantly unprofessional and a gross deviation from accepted standards for psychologists in their professional practice, and found that both had engaged in gross and repeated negligence, professional misconduct, and failure to comply with rules of the Board, all in violation of N.J.S.A. 45:1-21(c), (d), (e) and (h). Dr. Blasucci was in addition found

to have failed to maintain the ongoing requirement of good moral character, in violation of N.J.S.A. 45:14B-14(b).

The Board's Final Decision and Order suspended the licenses of Drs. Blasucci and Nieves for three years, the first six months of which were to be an active suspension, with the remaining two and one half years to be stayed as a period of probation. Certain remedial requirements were established for the period of the stayed suspension. In addition, costs of \$11,033.00 were assessed jointly and severally against both respondents (those costs have since been paid).

Dr. Blasucci was assessed a civil penalty of \$16,500. He has paid only \$2,000, and has failed to make any payments toward the balance of \$14,500, See Certification of Paul C. Brush, Executive Director of the State Board of Psychological Examiners (Exhibit A). Dr. Nieves was assessed a civil penalty of \$15,000. He, too, has paid only \$2,000, and has failed to make any payments toward the balance of \$13,000. See Exhibit A. After a protracted failure to make any payments whatsoever, in December 1999 both respondents requested a waiver of the entire balance of the civil penalties then due and owing. By letter of July 27, 2000 the Board refused to waive the penalties. Notwithstanding that notice, neither respondent has paid the remaining penalty either in full or in part nor has either respondent made any good faith payments toward the debt. Exhibit A.

Paragraph 6 of the Final Order reserves to the Board the authority to take action upon receipt of information indicating violation of any term of the Final Order. The Order was not appealed, and remains in full force and effect.

This application is predicated upon the failure of each respondent to have paid the civil penalty assessed against him.

ARGUMENT

POINT I

THE WILLFUL FAILURE OF EACH RESPONDENT HEREIN TO HAVE PAID THE PENALTY ASSESSMENT VIOLATES THE BOARD'S DISCIPLINARY ORDER, WARRANTING ACTIVATION OF THE STAYED PORTION OF THE LICENSE SUSPENSIONS, AND FURTHER WARRANTING IMPOSITION OF ADDITIONAL PENALTIES AS SECOND OFFENDERS.

A.

Each respondent made an initial payment of \$2,000 toward his debt to the Board of Psychological Examiners - sufficient to lull the Board into deeming the period required for active

suspension of license to be completed and to allow each respondent to commence practice on probation during a stayed balance of the suspension period. Thereafter, each respondent failed and refused to make any further payment toward the debts. See Brush Certification, Exhibit A.

Paragraph 6 of the Board's Final Decision and Order states as follows:

It is expressly understood and agreed that continued licensure with restrictions as ordered herein is contingent upon strict compliance with all of the aforementioned conditions. Upon the Board's receipt of any information indicating that any term of the within Order has been violated in any manner whatsoever, a hearing shall be held on short notice before the Board or before its representative authorized to act on its behalf. The proofs at such a hearing shall be limited to evidence of the particular violation at issue and, if sustained, may cause the activation of the remaining period of probation or other appropriate penalty.

N.J.S.A. 45:1-21(h) authorizes the Board to take disciplinary action against a licensee who fails to comply with any act administered by the Board. That subsection is implemented in part by the Uniform Rules of the Division of Consumer Affairs. N.J.A.C. 13:45C-1.4, states as follows:

The failure of a licensee to comply with an order duly entered and served upon the licensee or of which the licensee has knowledge shall be deemed professional or occupational misconduct.

The failure of Dr. Blasucci and of Dr. Nieves to pay the penalty assessment in full within the time established pursuant to the Board Order constitutes violation of the Board's Final Decision and Order, and of the cited rule and statutory provision, constituting professional misconduct; N.J.S.A. 45:1-21(e) and (h).

B.

Paragraph 4 of the Order permitted each respondent to elect to pay the penalty in installments, allowing payment of equal monthly installments over a period of no more than three years, commencing on June 1, 1998. The paragraph further advised that any failure to make a monthly payment on time shall cause the entire remaining balance to become immediately due and payable. Neither respondent has requested the opportunity to pay the penalty in installments, nor has either respondent made any good faith installment payment since the initial and only payment of \$2,000 from each.

In December 1999 respondents, through their attorney, requested a complete elimination of the remaining penalties assessed against them. By letter of July 25, 2000, the Board's Executive Director advised defense counsel that the petition and supporting information had been considered; that the Board had received no payments from respondents in some ten months; that the Board voted not to waive the financial penalty and, if payment were not received, the matter would be referred to the Attorney General (see Exhibit C). Notwithstanding this notice, no payments were received.

The failure of each respondent to arrange for installment payments, after the sole initial payment, should be seen as an exacerbating circumstance and a willful disregard of the Board Order. This warrants a disciplinary sanction and penalty separate from and in addition to the activation of the stayed suspension period already authorized by the terms of the Final Order.

Further, the willful disregard by each respondent of the opportunity even to make good faith payments at any time demonstrates disrespect for the regulatory process established in the interests of the public safety and welfare, indicates a lack of remorse for the serious misconduct proven at trial, and manifests a lack of good moral character as to each of them.

N.J.S.A. 45:1-25, as amended by Laws of 1999 chapter 403, establishes, in addition to any other sanctions provided by the Uniform Enforcement Act, a civil penalty of up to \$20,000 for the second violation of any act or regulation administered by the Board. A second or subsequent violation is defined, in pertinent part, as a violation of an administrative order which has been entered in a prior, separate and independent proceeding. In the present matter, that prior administrative order was the Final Decision and Order filed May 11, 1998. Respondents are therefore second offenders warranting assessment of civil penalties of up to \$20,000 each in addition to the other sanctions (*e.g.*, active suspension or revocation of license) authorized by law.

CONCLUSION

For the foregoing reasons, the stayed portion of the license suspension period of Dr. Allen P. Blasucci, and of Dr. Luis R. Nieves, should be immediately activated, thus precluding any form of the practice of psychology in this State. In addition, penalty as a second offender, as well as costs and attorney fees, should be assessed pursuant to N.J.S.A. 45:1-25, as amended.

Respectfully submitted,

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

By: _____

Joan D. Gelber
Deputy Attorney General

c: Allen P. Blasucci, Psy.D.
Luis R. Nieves, Psy.D.
Christopher Barbrack, Esq

**CERTIFIED TO BE
A TRUE COPY**

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PSYCHOLOGICAL EXAMINERS
OAL DOCKET NO. BDS 2394-97

IN THE MATTER OF THE)
SUSPENSION OR REVOCATION) Administrative Action
OF THE LICENSE OF)
)
ALLEN P. BLASUCCI, Pys.D.)
)
-and-)
)
LUIS R. NIEVES, Psy.D.)
)
TO PRACTICE PSYCHOLOGY)
IN THE STATE OF NEW JERSEY)
_____)

ORDER

**FILED WITH THE BOARD OF
PSYCHOLOGICAL EXAMINERS**
ON June 1, 1998

This matter was brought before the New Jersey State Board of Psychological Examiners ("Board") upon receipt on May 18, 1998, of a Motion for Emergent Stay, Rehearing and Reconsideration, filed by Steven Blader, Esq., on behalf of respondent Luis R. Nieves, Psy.D., and upon receipt on May 19, 1998, of a Motion for Emergent Stay, New Trial, Rehearing and Reconsideration, filed by Christopher R. Barbrack, Esq., on behalf of respondent Allen P. Blasucci, Psy.D. The Motions relate to the Board's Final Decision and Order filed on May 11, 1998 which, among other things, suspended the licenses of the respondents to practice psychology for a period of three years, the first six months of which are to be active and the remaining two and a half years of the suspension are to be stayed and serve as a period of probation so long as all other terms and conditions of the Order are met. The effective date of the active period of suspension of the respondents is 30 days from the entry of the Order.

At its Public Meeting of May 18, 1998, the Board expressly authorized Kenneth G. Roy, Ed.D., Chair of the Board, to consider any motions filed in this matter and to render a decision and order to be ratified by the full Board at its next Public Meeting on June 22, 1998. Dr. Roy reviewed the letter briefs filed on behalf of the respondents as well as the letter brief filed by DAG Joan D. Gelber in opposition to the motions and Mr. Barbrack's reply to the Attorney General's submission filed on behalf of Dr. Blasucci.

DISCUSSION

The letter brief filed on behalf of Dr. Nieves suggest that there are two fundamental errors in the Board's decision. First, although the allegations concerning sexual harassment and hostile work environment were dismissed in the Initial Decision of Administrative Law Judge Jeff Masin, Dr. Nieves states that the Board has mistakenly ascribed the improper conduct of Dr. Blasucci to him as well. He specifically objects to the Board's comment on page 22 of the Final Decision and Order filed on May 11, 1998, that the conduct of both respondents in regard to a reported incident ("[T]he Philadelphia Incident") was reprehensible.

Although the Board clearly adopted the Administrative Law Judge's dismissal of the allegations against Dr. Nieves because the facts did not rise to the level of sexual harassment, the Board agreed with the assessment of the ALJ that the conduct of Dr. Nieves, although not equally egregious with Dr. Blasucci's conduct,

certainly was not laudatory for a licensed psychologist. ALJ Masin states on pages 139 to 140 of his Initial Decision as follows:

As for Dr. Nieves, I believe that he did on occasion touch Ms. Heller's shoulders or hair. He seems to me to be the type of person who "touches" people, even more so than merely touching them to "guide" them, as he described. These touches did not necessarily imply any sexual motives, but there are some strong hints here of an "interest" in Heller on Nieve's part. The "touchy-feely" tendency by itself might be totally innocent in motivation, but combined with other factors, such as discussions of off-work hour visits, favorable treatment above that provided to others, etc., even the fact that his marriage had apparently floundered, the touching may well imply some other motivations, particularly to the party touched. I do not want to suggest that Nieves actually had sexual designs upon Heller, but he may have inadvertently created the impression that he did, both to her as well as to others who, as the record indicates, gossiped about them.

Ms. Heller was hired by the respondents as a social worker with a Master's Degree in Clinical Counseling, and at the time of her employment was working towards her doctoral degree. The Board's May 11, 998 Order was intended to reflect the facts in the record. The Board did not consider the dismissed charges of sexual harassment when it determined the appropriate penalty for Dr. Nieves.

Further, Dr. Nieves suggests that the sustained allegations concerning his role as a supervisor of unlicensed mental health care providers were de minimus. He also argues that

his conduct in this regard was not as egregious as that of Dr. Blasucci. He urges, therefore, that his penalty should be proportionately less than that imposed on Dr. Blasucci. The Board made it abundantly clear in its Final Decision and Order that it considered all of the sustained allegations concerning the supervision of employees and permit holders to be serious violations of trust. Dr. Nieves was a Board approved supervisor for some of the permit holders, and he was an equal partner with Dr. Blasucci in the entity which employed unlicensed clinical staff. He was equally responsible for the training and supervision of employees and permit holders, and the Board found that the level of supervision and oversight for the provision of mental health care services was absolutely inadequate. Further, it was only Dr. Nieves who was found to have engaged in a conflict of interest by employing a relative, and it was only Dr. Nieves who was found to have improperly used information for his own benefit which was obtained from his own permit holders and that he abandoned certain permit holders for whom he was responsible and retaliated against one former permit holder in a completely unprofessional manner. All of these facts weighed in the Board's decision, and each respondent's penalty was determined independent of the other.

Counsel for Dr. Blasucci asks the Board to reconsider the issue of Judge Masin's bias which was the subject of an earlier motion for a new hearing. That motion was denied by Barbara A. Harned, Director and Chief Administrative Law Judge, in a comprehensive five page decision which was adopted by the Board.

Dr. Blasucci presents absolutely no new information which would persuade the Board to reconsider this issue.

Dr. Blasucci further suggests that the Board imposed an excessive penalty on Dr. Blasucci for having sex with his client notwithstanding the fact that the Board rejected Judge Masin's finding that Dr. Blasucci had a sexual relationship with a client and dismissed the charge. This argument has absolutely no merit. Not only did the Board conduct a supplemental hearing in order to assure that any decision on this issue was based on as complete a record as was possible, but the final penalty imposed by the Board reflects the dismissal of this charge since Judge Masin recommended revocation of Dr. Blasucci's license to practice psychology.

Both respondents object to the limitations placed on their ability to practice psychology during the six month period of active suspension. Their arguments suggest that they are seeking ways to practice psychology by another name during the six months when their authority to practice psychology in this State has been suspended. Both respondents hold doctoral degrees in psychology, both respondents have been licensed to practice psychology in this State, yet both respondents assert that they should be permitted to use psychological principles during the six month period of license suspension by practicing psychology in other employment. For example, both respondents suggest they should be able to obtain employment as a human resource director who would conduct applicant screenings and training in stress management. Although members of other professional groups doing work of a psychological nature are

exempt from licensure pursuant to Board regulation so long as such work is consistent with the accepted standards of their respective professions, a person whose license to practice psychology has been suspended, revoked or limited by the Board, is deemed ineligible to be employed in an exempt setting or as a member of another professional group whose work may involve the use of psychological principles. N.J.A.C. 13:42-1.5 and 1.6. There are many ways of earning a living and many avenues of employment which do not utilize psychological principles or call upon the education and training of a licensed psychologist. The respondents may not evade the Board's order by utilizing psychological principles and otherwise practicing psychology in employment with a different job title.

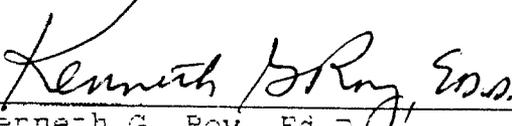
Finally, the respondents have failed to articulate any persuasive reason for granting an emergent stay of the Board's Order. A stay is not a matter of right even if irreparable injury might result. Rather, such relief is an exercise of judicial discretion whose propriety depends upon the circumstances of the particular case. Virginia Railway v. United States, 272 U.S. 658, 672, 47 S.Ct. 222, 71 L.Ed. 463 (1926). Moreover, a variety of factors must be weighed before a stay may be granted. The respondents have failed completely to make a strong showing that they are likely to prevail on the merits of an appeal. Without such a substantial indication of probable success, there is no justification for a stay. Moreover, the respondents have failed to demonstrate irreparable injury; they have failed to address whether

the issuance of a stay would substantially harm other parties interested in the proceedings; and they have failed to address the public interest in this matter. In litigation involving the administration of regulatory statutes designed to promote the public interest, this factor necessarily becomes crucial. The interest of private litigants must give way to the realization of public purposes. Virginia Petroleum Jobbers Association v. Federal Power Commission, 259 F.2nd, 921, 925 (DC Cir. 1958).

Accordingly, after reviewing the documents submitted by the parties, and having found insufficient grounds to warrant a stay of the Board's May 11, 1998 Final Decision and Order and having found no persuasive reason to reconsider the Board's findings in its Final Decision and Order, and for good cause shown,

IT IS ON THIS *29th* DAY OF *May*, 1998,

ORDERED that respondents' Motions for Emergent Stay of the Board's May 11, 1998 Final Decision and Order and for Rehearing and Reconsideration be and are hereby denied.



Kenneth G. Roy, Ed.D.
Chair
Board of Psychological Examiners

CERTIFIED TO BE
A TRUE COPY



RECEIVED

OCT 17 2000

State of New Jersey

DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
124 HALSEY STREET
PO BOX 45029
NEWARK, NJ 07101
E-Mail: gelbejoa@law.dol.lps.state.nj.us

STATE BOARD OF PSYCHOLOGICAL EXAMINERS
PO BOX 45017
NEWARK, NEW JERSEY 07101

CHRISTINE TODD WHITMAN
Governor

JOHN J. FARMER, JR.
Attorney General

JEFFREY J. MILLER
Assistant Attorney General
Director

973-648-2478

October 16, 2000

Christopher R. Barbrack, Esq.
Princeton Corporate Center, 5 Independence Way, Suite 300
Princeton, NJ 08540

Re: In the Matter of the Suspension or Revocation of Licenses of Allen P. Blasucci, Psy.D. and Luis R. Nieves, Psy.D.

Dear Mr. Barbrack:

Thank you for returning my call this day. You have kindly agreed to accept service of an Administrative Complaint filed with the State Board of Psychological Examiners against the above-captioned psychologists.

Enclosed herein are two sets of the Complaint, supporting brief and appendix, and Order to Show Cause.

Yours truly,

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

By: _____

John D. Gelber
John D. Gelber
Deputy Attorney General

✓ c: State Board of Psychological Examiners

FAX 973-648-3879

FILED WITH THE BOARD OF
PSYCHOLOGICAL EXAMINERS
ON Oct 16, 2000

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

STATE OF NEW JERSEY
DEPT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF PSYCHOLOGICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION)
OR REVOCATION OF LICENSE OF)
ALLEN P. BLASUCCI, Psy.D. and)
LUIS R. NIEVES, Psy.D.)
TO PRACTICE PSYCHOLOGY)
IN THE STATE OF NEW JERSEY)

ADMINISTRATIVE ACTION
ORDER TO SHOW CAUSE,
NOTICE OF HEARING, AND
REQUIREMENT TO FILE ANSWER

TO: ALLEN P. BLASUCCI, Psy.D.
380 Mountain Road, Apt. 1212
Union City, NJ 07087-7321

LUIS R. NIEVES, Psy.D.
39 Georgetown Road
Columbus, NJ 08022-1706

This matter was presented to the State Board of Psychological Examiners by the Verified Administrative Complaint, copy attached, of John J. Farmer, Jr., Attorney General of New Jersey, by Joan D. Gelber, Deputy Attorney General, alleging that each respondent has failed to comply with the disciplinary provisions of a Final Decision and Order, and seeking activation of the previously stayed suspensions of the licenses of each respondent to practice the stated profession and for other relief pursuant to the authority conferred on the Board by N.J.S.A. 45:14B-1 et seq., 45:1-14 et seq. and related administrative regulations. For good cause shown;

IT IS on this 16 day of October 2000

ORDERED that each Respondent, either in person or by attorney, show cause before the New Jersey State Board of Psychological Examiners, at its regular monthly meeting on Monday, November 6, 2000, at the Board's Conference Room, sixth floor, 124 Halsey Street, Newark, New Jersey, at 11 a.m. or as soon thereafter as may be practicable, why an Order suspending or

otherwise limiting the license of each respondent to practice the listed profession in this State, should not be issued at that time; and IT IS FURTHER

ORDERED, that a copy of this Order together with the Verified Complaint and the Affidavits and Exhibits in support thereof be served upon each respondent forthwith; and IT IS FURTHER

ORDERED, that, in addition to responding to the Order to Show Cause, each respondent shall file an Answer to the charges contained within the Verified Complaint not less than three (3) days prior to the return date set forth herein, specifically addressing each paragraph of the Complaint. The Answer may be submitted by mail and shall be filed with the State Board of Psychological Examiners, P.O. Box 45017, 124 Halsey Street, 6th floor, Newark, New Jersey 07101 (telephone: 973-504-6470), with a copy to the named Deputy Attorney General, Division of Law, 124 Halsey Street, 5th floor, P.O. Box 45029, Newark, New Jersey 07101 (telephone: 973- 648-2478). IT IS FURTHER

ORDERED that an admission of the charges by either respondent will indicate that such respondent does not wish to contest the charges stated, rendering unnecessary any hearing on the allegations in this proceeding as to that respondent. The case will then be presented to the State Board within thirty (30) days from receipt of that respondent's Answer or on such adjourned date as the Board shall designate, together with any written matter which that respondent may wish to submit with the Answer in alleged mitigation of penalty, for a determination as to whether disciplinary sanctions, including suspension or revocation of respondent's license to practice the stated profession, or lesser sanction, should be imposed and whether monetary penalty and costs including attorney fees shall be assessed and, if so, the amount thereof, pursuant to the authority conferred upon the Board by N.J.S.A. 45:9-1 and 45:1-14 et seq. IT IS FURTHER

ORDERED that a denial of the charges will result in a formal hearing which may be conducted by the Board or by an Administrative Law Judge who, upon notice to the applicable respondent, will hear the Complaint and consider the matter of disciplinary sanctions with respect to that respondent's license and may recommend the possible determinations set forth above. The referenced respondent may appear at the hearing either in person or by attorney or both and shall be afforded an opportunity at that time to make defense to any or all of the charges. IT IS FURTHER

ORDERED that failure to respond to this Order to Show Cause, Notice of Hearing and Requirement to File Answer or failure to appear before the State Board in person or by attorney as herein indicated, or failure to appear for formal hearing on the remainder of the charges as required, may result in this matter being considered in that respondent's absence on the proofs presented and an Order may be entered against that respondent for any and all of the relief demanded in the Verified Complaint.

STATE BOARD OF PSYCHOLOGICAL EXAMINERS

By: Kenneth G. Roy, Ed.D.

KENNETH G. ROY, Ed.D., Chair

CERTIFIED TO BE
A TRUE COPY

FILED WITH THE BOARD OF
PSYCHOLOGICAL EXAMINERS
ON Oct 16, 2000

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

STATE OF NEW JERSEY
DEPT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF PSYCHOLOGICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION)
OR REVOCATION OF LICENSE OF)
ALLEN P. BLASUCCI, Psy.D. and)
LUIS R. NIEVES, Psy.D.)
TO PRACTICE PSYCHOLOGY)
IN THE STATE OF NEW JERSEY)

ADMINISTRATIVE ACTION

VERIFIED COMPLAINT

JOHN J. FARMER, JR., ATTORNEY GENERAL OF NEW JERSEY, by Joan D. Gelber, Deputy Attorney General, with offices at 124 Halsey Street, Newark, New Jersey 07101, by way of Verified Complaint says:

GENERAL ALLEGATIONS

1. Complainant Attorney General of New Jersey is charged with enforcing the laws of the State of New Jersey pursuant to N.J.S.A. 52:17A-4(h) and 45:1-14 et seq.
2. The New Jersey State Board of Psychological Examiners is charged with the duty and responsibility of regulating the practice of psychology in the State of New Jersey pursuant to N.J.S.A. 45:14B-1 et seq.
3. As set forth in the Certification of Paul C. Brush, Executive Director of the State Board of Psychological Examiners, public records of the Board reflect that respondents Allen P. Blasucci, Psy.D. and Luis R. Nieves, Psy.D. are the subjects of a disciplinary order of the Board filed on May 11, 1998. See Exhibit A.
4. Respondent Allen P. Blasucci, Psy.D. is the holder of license number 1254 and has been licensed to practice psychology during all times pertinent herein. His address of record is

380 Mountain Road, Apt. 1212, Union City, NJ 07087-7321.

5. Respondent Luis R. Nieves, Psy.D. is the holder of license number 1275 and has been licensed to practice psychology during all times pertinent herein. His address of record is 39 Georgetown Road, Columbus, NJ 08022-1706.

COUNT I

1. Complainant repeats the General Allegations set forth above.

2. By Final Decision and Order filed May 11, 1998, the State Board of Psychological Examiners found respondent Allen P. Blasucci, Psy.D. guilty of establishing an extended pattern of numerous and flagrant professional improprieties. Dr. Blasucci's license to practice psychology was ordered suspended for three years, effective June 6, 1998, with the first six months of the suspension to be active and the remaining two and one-half years to be stayed and served as a period of probation conditioned upon his compliance with all terms of the Order. See Final Decision and Order, Exhibit B.

3. Respondent Dr. Blasucci was assessed, jointly and severally with Dr. Nieves, for costs of \$11,875.50. Dr. Blasucci has paid his share of the costs, which are paid in full (Exhibit A).

4. Pursuant to the Final Order, respondent Dr. Blasucci was further assessed a civil penalty of \$16,500 based upon the eleven violations attributed to him, payable (in the absence of installment payments approved by the Board) no later than June 6, 1998 (Exhibit B).

5. Respondent Dr. Blasucci has paid \$2,000 toward the penalty, leaving a balance due of \$14,500 (Exhibit A.).

6. Dr. Blasucci's request for waiver of the penalty balance was denied by the Board by letter dated July 27, 2000. No installment payment schedule was requested or approved, and no additional moneys have been paid. See Board letter, Exhibit C.

7. Respondent Dr. Blasucci's failure to pay the assessed penalty constitutes failure to comply with an Order of the Board, in violation of N.J.A.C. 13:45C-1.4 and N.J.S.A. 45:1-21(e) and (h). Respondent's willful failure to arrange for and to make payments, in the circumstances herein, constitutes failure of the ongoing requirement of good moral character; N.J.S.A. 45:14B-14(b).

8. Respondent Dr. Blasucci is a second offender, pursuant to N.J.S.A. 45:1-25, as amended.

COUNT 2

1. Complainant repeats the General Allegations set forth above.
2. By Final Decision and Order filed May 11, 1998, the State Board of Psychological Examiners found respondent Dr. Nieves guilty of establishing an extended pattern of numerous and flagrant professional improprieties. Dr. Blasucci's license to practice psychology was ordered suspended for three years, effective June 6, 1998, with the first six months of the suspension to be active and the remaining two and one-half years to be stayed and served as a period of probation conditioned upon his compliance with all terms of the Order. See Exhibit B.
3. Respondent Dr. Nieves was assessed, jointly and severally with Dr. Blasucci, for costs of \$11,875.50. Dr. Nieves has paid his share of the costs, which are paid in full (Exhibit A).
4. Respondent Dr. Nieves was further assessed a civil penalty of \$15,000 based upon the ten violations attributed to him, payable (in the absence of installment payments approved by the Board) no later than June 6, 1998 (See Exhibit B).
5. Respondent Dr. Nieves has paid \$2,000 toward the penalty, leaving a balance due of \$13,000. His request for waiver of the balance was denied by the Board by letter dated July 27, 2000. No installment payment schedule was requested or approved, and no additional moneys have been paid. See Certification of Paul C. Brush, Executive Director of the Board, Exhibit A.
6. Respondent Dr. Nieves' failure to pay the assessed penalty constitutes failure to comply with an Order of the Board, in violation of N.J.A.C. 13:45C-1.4 and N.J.S.A. 45:1-21(e) and (h). Respondent's willful failure to arrange for and to make payments, in the circumstances herein, constitutes failure of the ongoing requirement of good moral character; N.J.S.A. 45:14B-14(b).
7. Respondent Dr. Nieves is a second offender, pursuant to N.J.S.A. 45:1-25, as amended.

WHEREFORE, Complainant demands the entry of an Order against respondent Blasucci, including the following:

1. Suspension or revocation of the licenses heretofore issued to respondents Dr. Blasucci and Dr. Nieves to practice psychology in the State of New Jersey.
2. Imposition of penalties against respondent Dr. Blasucci for the conduct alleged in Count 1, and as a second offender.

3. Imposition of costs against Dr. Blasucci, including investigative costs, attorney fees, and costs of trial including transcripts.

4. Imposition of penalty against respondent Dr. Nieves for the conduct alleged in Count 2, and as a second offender.

5. Imposition of costs against Dr. Nieves, including investigative costs, attorney fees, and costs of trial including transcripts.

6. Such other and further relief as against each respondent as the Board of Psychological Examiners shall deem just and appropriate.

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

By: _____
Joan D. Gelber
Deputy Attorney General

Date: October 2000

CERTIFIED TO BE
A TRUE COPY

RECEIVED
DEC 28 2000
By _____

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

FILED WITH THE BOARD OF
PSYCHOLOGICAL EXAMINERS
ON January 3, 2001

STATE OF NEW JERSEY
DEPT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF PSYCHOLOGICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION)
OR REVOCATION OF LICENSE OF)
ALLEN P. BLASUCCI, Psy.D. and)
LUIS R. NIEVES, Psy.D.)
TO PRACTICE PSYCHOLOGY)
IN THE STATE OF NEW JERSEY)

ADMINISTRATIVE ACTION

FINAL ORDER OF REPRIMAND
AS TO LUIS R. NIEVES, Psy.D.

A Verified Complaint was filed on October 16, 2000 by the Attorney General of New Jersey, by Joan D. Gelber, Deputy Attorney General, against both Allen P. Blasucci, Psy.D. and Luis R. Nieves, Psy.D. Both Respondents are represented by Christopher R. Barbrack, Esq.

The Complaint against Respondent Dr. Nieves alleged that, notwithstanding a disciplinary Final Decision and Order issued against him by the State Board of Psychological Examiners on May 11, 1998 following trial, imposing certain license and monetary sanctions, Dr. Nieves had failed, without justification, to pay the full penalty assessed against him and had ignored the opportunity to establish an installment payment schedule. Following a Board reaffirmation of the requirement of penalty in July 2000, Dr. Nieves continued to disregard this obligation. Said conduct was alleged to violate N.J.S.A. 45:1-21(e) and (h) and N.J.S.A. 45:14B-14(b).

Following the filing of the current Complaint seeking activation of the stayed portion of the prior assessed suspension of license, and other sanctions, for failure to have complied with the Board Order, Dr. Nieves acknowledged the failure to comply with the Order and, in lieu of appearing at the scheduled Order to Show Cause, on November 28, 2000 paid the outstanding debt in full. He now pleads no contest to the allegations, with an apology.

The Board has substantial concern at the implications of the plain disregard of the prior Order by one who is bound by his profession and his license to comply with law. The Board expressly disapproves the conduct of a licensee who requires such measures to cure a violation and to assure compliance with a Board Order.

Taking into account all of the present circumstances, including Dr. Nieves's acknowledgment of the violations,

IT IS, ON THIS 3rd DAY OF ~~DECEMBER~~ ^{JANUARY 2001} 2000
ORDERED:

Dr. Luis R. Nieves is hereby reprimanded for his failure to have timely complied with the May 11, 1998 Final Decision and Order of the Board.

THIS ORDER IS EFFECTIVE UPON ENTRY.

STATEBOARD OF PSYCHOLOGICAL EXAMINERS

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

Luis R. Nieves, Psy.D.

Witness:

By: Ch

Counsel to Dr. Nieves

CHRISTOPHER R. BARBRACK, ESQUIRE
ATTORNEY IN THE STATE OF NEW JERSEY

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

FILED WITH THE BOARD OF
PSYCHOLOGICAL EXAMINERS
ON January 3, 2001

STATE OF NEW JERSEY
DEPT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF PSYCHOLOGICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION)
OR REVOCATION OF LICENSE OF)
ALLEN P. BLASUCCI, Psy.D. and)
LUIS R. NIEVES, Psy.D.)
TO PRACTICE PSYCHOLOGY)
IN THE STATE OF NEW JERSEY)

ADMINISTRATIVE ACTION

FINAL ORDER OF REPRIMAND
AS TO ALLEN P. BLASUCCI, Psy.D.

A Verified Complaint was filed on October 16, 2000 by the Attorney General of New Jersey, by Joan D. Gelber, Deputy Attorney General, against both Allen P. Blasucci, Psy.D. and Luis R. Nieves, Psy.D. Both Respondents are represented by Christopher R. Barbrack, Esq.

The Complaint against Respondent Dr. Blasucci alleged that, notwithstanding a disciplinary Final Decision and Order issued against him by the State Board of Psychological Examiners on May 11, 1998 following trial, imposing certain license and monetary sanctions, Dr. Blasucci had failed, without justification, to pay the full penalty assessed against him and had ignored the opportunity to establish an installment payment schedule. Following a Board reaffirmation of the requirement of penalty in July 2000, Dr. Blasucci continued to disregard this obligation. Said conduct was alleged to violate N.J.S.A. 45:1-21(e) and (h) and N.J.S.A. 45:14B-14(b).

Following the filing of the current Complaint seeking activation of the stayed portion of the prior assessed suspension of license, and other sanctions, for failure to have complied with the Board Order, Dr. Blasucci acknowledged the failure to comply with the Order and, in lieu of appearing at the scheduled Order to Show Cause, on November 9, 2000 paid the outstanding debt in full. He now pleads no contest to the allegations, with an apology.

The Board has substantial concern at the implications of the plain disregard of the prior Order by one who is bound by his profession and his license to comply with law. The Board expressly disapproves the conduct of a licensee who requires such measures to cure a violation and to assure compliance with a Board Order.

Taking into account all of the present circumstances, including Dr. Blasucci's acknowledgment of the violations,

IT IS, ON THIS 3rd DAY OF ~~DECEMBER 2000~~ January 2001

ORDERED:

Dr. Allen P. Blasucci is hereby reprimanded for his failure to have timely complied with the May 11, 1998 Final Decision and Order of the Board.

THIS ORDER IS EFFECTIVE UPON ENTRY.

STATE BOARD OF PSYCHOLOGICAL EXAMINERS

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

[Signature]
Allen P. Blasucci, Psy.D.

Witness:

By: [Signature]
Counsel to Dr. Blasucci

CHRISTOPHER R. BARBRACK, ESQUIRE
ATTORNEY IN THE STATE OF NEW JERSEY

12

A-4970-99T3

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A -004970-99T3

DONNA TOMA
VS
BOARD OF PSYCHOLOGICAL EXAMINERS

ORDER DISMISSING APPEAL

FILED
APPELLATE DIVISION
JAN 03 2001

Emille R. Cox
Clerk

This matter being opened to the Court on its own motion and it appearing that the appellant has failed to prosecute the appeal;

It is HEREBY ORDERED that the above appeal is dismissed.

WITNESS, the Honorable Sylvia B. Pressler, Presiding Judge for Administration, at Trenton, this 03 day of January, 2001.

Emille R. Cox

EMILLE R. COX
CLERK OF THE APPELLATE DIVISION

I hereby certify that the foregoing is a true copy of this original as filed in my office.

Emille R. Cox

GPS

JUDAR1