

FILED

March 26, 2010

STATE OF NEW JERSEY
BOARD OF MARRIAGE AND FAMILY THERAPY EXAMINERS
ALCOHOL AND DRUG COUNSELOR COMMITTEE

Erin L. DeKor

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
ALCOHOL AND DRUG COUNSELOR COMMITTEE
OF THE STATE BOARD OF MARRIAGE AND
FAMILY THERAPY EXAMINERS

IN THE MATTER OF THE SUSPENSION	:	Administrative Action
OR REVOCATION OF THE CERTIFICATION	:	
OF:	:	
	:	
KEVIN J. NALLY	:	FINAL ORDER
CERTIFICATE NO. 37CA00040100	:	OF DISCIPLINE
	:	
TO PRACTICE ALCOHOL AND DRUG	:	
COUNSELING IN THE	:	
STATE OF NEW JERSEY	:	

This matter was opened to the Alcohol and Drug Counselor Committee ("Committee") of the New Jersey State Board of Marriage and Family Therapy Examiners ("Board") upon receipt of information which the Committee has reviewed and on which the following findings of fact and conclusions of law are made;

FINDINGS OF FACT

1. Respondent is a certified alcohol and drug counselor in the State of New Jersey and has been certified at all times relevant to this action.

2. On June 18, 2009, the Committee requested documents regarding the disposition of respondent's October 27, 2007 arrest pursuant to N.J.S.A. 2C:33-2.1B, Loiter Obtain/Sell Controlled Substances in Public, to be submitted by respondent to the

Committee by July 10, 2009.

3. Respondent has failed to produce the documents requested by the Committee.

CONCLUSIONS OF LAW

Pursuant to N.J.A.C. 13:45C-1.3(a)(2), a certified alcohol and drug counselor's failure to timely provide records related to the alcohol and drug counselor's conduct is deemed a failure to cooperate and, therefore, professional or occupational misconduct and grounds for suspension of licensure.

DISCUSSION ON FINALIZATION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline (POD) was entered by this Committee on October 20, 2010 and served upon respondent by Certified Mail with Return Receipt. The POD was subject to finalization by the Committee at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for considerations and reasons therefor. The Committee received a copy of the receipt (the green card) signed by the respondent acknowledging delivery of the POD on November 14, 2009. To date, the Committee has not

received a response from respondent. Inasmuch as three months have elapsed since service of the order, the Committee finds that no material discrepancies have been raised. Accordingly, the Committee considered the matter, determined that further proceedings were not necessary and that the Provisional Order should be made final.

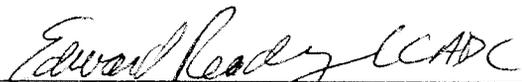
THEREFORE, IT IS ON THIS _____ DAY OF FEBRUARY, 2010;

ORDERED:

Respondent's certification to practice alcohol and drug counseling in the State of New Jersey is suspended unless and until respondent cooperates with the Committee's investigation and produces documentation regarding the disposition of his October 27, 2007 arrest to the Committee.

ALCOHOL AND DRUG COUNSELOR
COMMITTEE OF THE STATE BOARD OF
MARRIAGE AND FAMILY THERAPY EXAMINERS

By:



Edward Reading, Ph.D., LCADC
Committee Chair

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
ALCOHOL AND DRUG COUNSELOR COMMITTEE OF
THE STATE BOARD OF MARRIAGE AND FAMILY
THERAPY EXAMINERS

IN THE MATTER OF THE
SUSPENSION OR REVOCATION OF THE :
CERTIFICATION OF

Administrative Action

KEVIN J. NALLY
CERTIFICATE NO. 37CA00040100

CERTIFICATION

TO ENGAGE IN THE PRACTICE OF :
ALCOHOL AND DRUG COUNSELING IN :
THE STATE OF NEW JERSEY :

I, Elaine L. DeMars, of full age, certify as follows:

1. I am the Acting Executive Director of the Alcohol and Drug Counselor Examiners Committee of the New Jersey State Board of Marriage and Family Therapy Examiners (the Committee), with offices located at 124 Halsey Street, Newark, New Jersey 07102 and I am the official custodian of the records of the Committee and have diligently searched the records for the Committee.

2. On November 12, 2009 I served the Provisional Order of Discipline (POD) on Kevin J. Nally by Certified Mail Return Receipt Requested. (Annexed as Exhibit A is a copy of the cover letter and the request for Certified Mail Return Receipt Requested.)

3. I subsequently received a receipt (the green card) signed by Kevin Nally, dated November 14, 2009. (Annexed as Exhibit B is a copy of the receipt.)

4. The Committee has not received any documents in response to the POD.

I certify that all the foregoing statements made by me are true and that if any of the foregoing statements made by me are willfully false, I am subject to punishment.


Elaine L. DeMars

Date: March 26 , 2010.

EXHIBIT A



JON S. CORZINE
Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
State Board of Marriage and Family Therapy Examiners
Alcohol and Drug Counselor Committee
124 Halsey Street, 6th Floor, Newark, NJ 07102



ANNE MILGRAM
Attorney General

DAVID SZUCHMAN
Director

November 12, 2009

Mailing Address:
P.O. Box 45040
Newark, NJ 07101
(973) 504-6582

Kevin J. Nally
15 Lee Court
Lebanon, New Jersey 08833

Dear Mr. Nally:

Enclosed please find a Provisional Order of Discipline of Licensure ("the POD") filed with the Alcohol and Drug Counselor Committee. As the POD states, the Order will become final on the 30th business day following the entry hereof unless the licensee requests a modification or dismissal of the Findings of Facts contained within the POD.

The POD includes specific Finding or Fact and Conclusions of Law. You should carefully review the enclosed Order. The Findings of Fact and Conclusions represent only allegations and a proposed determination of legal liability. If you deem there to be material facts in dispute, please indicate in your response the specific facts you believe are in dispute. In the event that your submission establishes a need for further consideration, a hearing will be scheduled. While the document enclosed is a public record at this juncture, anyone who inquires will be advised that the contents at this time, are not final, and thus are only allegations.

If you fail to respond to the POD, or fail to submit materials or a written argument which warrants an appearance, the Committee will move to finalize the POD in accordance with the time frame set forth in the POD. After the Final order of Discipline is filed, you will be served with a copy of the Final Order.

Sincerely,
ALCOHOL AND DRUG COUNSELOR COMMITTEE

Elaine L. DeMars
Executive Director

Enclosure
cc: Susan Berger, Deputy Attorney General



JON S. CORZINE
Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
State Board of Marriage and Family Therapy Examiners
Alcohol and Drug Counselor Committee
124 Halsey Street, 6th Floor, Newark, NJ 07102



ANNE MILGRAM
Attorney General

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The POD includes specific Finding or Fact and Conclusions of Law. You should carefully review the enclosed Order. The Findings of Fact and Conclusions of Law constitute a proposed determination of legal liability. If you deem that the Order is unjust, please indicate in your response the specific facts you believe justify your submission establishes a need for further consideration. While the document enclosed is a public record at this juncture, we are advised that the contents at this time, are not final, and thus subject to change.

If you fail to respond to the POD, or fail to submit material in support of your position, warrants an appearance, the Committee will move to finalize the POD within the time frame set forth in the POD. After the Final order of Discipline is issued, we will provide you with a copy of the Final Order.

Sincerely,
ALCOHOL AND DRUG COUNSELOR COMMITTEE

Elaine L. DeMars
Executive Director

Enclosure
cc: Susan Berger, Deputy Attorney General

U.S. Postal Service™		CERTIFIED MAIL™ RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)			
For delivery information visit our website at www.usps.com			
OFFICIAL USE			
Postage	\$	Postmark Here 	
Certified Fee			
Return Receipt Fee (Endorsement Required)			
Restricted Delivery Fee (Endorsement Required)			
Total Postage & Fees	\$		
Sent To		Kevin J. Nally	
Street, Apt. No., or PO Box No.		15 Lee Court	
City, State, ZIP+4		Lebanon NJ 08833	
PS Form 3800, June 2002		See Reverse for Instructions	

EXHIBIT B

SENDER: COMPLETE THIS SECTION

- Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece or on the front if space permits.

1. Article Addressed to:

Kenn J. Nally
15 Lee Court
Delmar NY 08833

(Signature)

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
Kenn Nally

B. Received by (Printed Name) Addressee

C. Date of Delivery Yes No
11-14

D. Is delivery address different from Item 1? Yes No
 If YES, enter delivery address below:

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number (Transfer from service label) **7094 2530 9002 5163 7668**

PG Form 3811, February 2004 **Bornfeld Return Receipt** 182000-08-M-1540