

182-0296

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State Board of Examiners of Heating, Ventilating,
Air Conditioning and Refrigeration Contractors
Rosemarie S. Baccile, Acting Executive Director

Rosemarie S. Baccile

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Division of Law 5th Floor
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101
Attorney for the Board of Examiners of Heating,
Ventilating, Air Conditioning and Refrigeration Contractors

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
NEW JERSEY STATE BOARD OF EXAMINERS
OF HEATING, VENTILATING, AIR CONDITIONING
AND REFRIGERATION CONTRACTORS

IN THE MATTER OF THE
APPLICATION OF

HARVEY P. SCELSON

FOR A HEATING, VENTILATING,
AIR CONDITIONING AND
REFRIGERATION CONTRACTING
LICENSE IN NEW JERSEY

Administrative Action

PROVISIONAL ORDER
OF DENIAL OF LICENSURE

This matter was opened to the New Jersey State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigerator Contractors ("Board") upon receipt of information which the Board has reviewed and on which the following preliminary findings of fact and conclusions of law are made;

FINDINGS OF FACT

1. Harvey P. Scelso ("respondent") applied for a Heating, Ventilating, Air Conditioning and Refrigeration ("HVACR") contractor's license in the State of New Jersey. In his application for licensure, respondent indicated he had been convicted of a crime. As requested, respondent provided documentation related to his conviction. According to the information provided, respondent pled guilty to second degree Sexual Assault (N.J.S.A. 2C:14-2b) on August 10, 1993. (Exhibit A, copy of the Judgment of Conviction entered on March 18, 1994, attached).

(1)

(1-119) pg. B

2. On November 10, 1990, a sexual assault complaint was reported to the Evesham Township Police Department by B.M. involving her nine year old daughter, M.R. B.M. told the police that M.R. had complained of being sexually touched by respondent on various occasions in the summer of 1989, when she was eight years old. Respondent was arrested on November 20, 1990 and charged with Aggravated Sexual Assault (N.J.S.A. 2C:14-2(a)(1)); Sexual Assault (N.J.S.A. 2C:14-2(b)); and Endangering the Welfare of a Child (N.J.S.A. 2C:24-4(a)). (Exhibit B, copy of Adult Presentence Report, attached).

3. On August 10, 1993, respondent pled guilty in Burlington County Superior Court to second degree Sexual Assault (N.J.S.A. 2C:14-2b). The charges of Aggravated Sexual Assault (N.J.S.A. 2C:14-2(2)(a)(1)) and Endangering the Welfare of a Child (N.J.S.A. 2C:24-4(a)) were dismissed. Respondent was committed to the custody of the Commissioner of Corrections for confinement at the New Jersey Adult Diagnostic Treatment Center ("ADTC") at Avenel, New Jersey for a period of three (3) years. (Exhibit A, copy of the Judgment of Conviction entered on March 18, 1994, attached).

4. During a psychological evaluation to determine his eligibility for sentencing under the purview of the New Jersey Sex Offender Act, respondent discussed his chronic history of sexual attraction to young girls in the eight to eleven year old range. Respondent acknowledged sexual involvement with another previous victim, a ten-year old niece. No charges have been brought against respondent for any additional victims. The evaluation concluded that respondent's present offense represented a pattern of "repetitive and compulsive sexual behavior." The evaluation also found that respondent "has been sexually attracted to young girls for many years, and he has struggled to resist impulses to act out pedophilic fantasies." Despite having previously participated in treatment, and despite his recognition that he could get in serious trouble for such behavior, respondent was "unable to resist the associated sexual impulses in the present case." Respondent was determined to be eligible for sentencing under

the purview of the New Jersey Sex offender Act. (Exhibit C, copy of the Adult Diagnostic and Treatment Center Psychological Report, attached).

5. In 2005, respondent submitted an application to the New Jersey Division of Consumer Affairs ("Division") for registration as a Home Improvement Contractor, pursuant to N.J.S.A. 56:8-136, et seq. The Division filed a Provisional Order of Denial of Registration, dated December 12, 2005, which provisionally denied respondent's application for registration as a Home Improvement Contractor, based on respondent's prior criminal history of sexual assault. The Provisional Order of Denial of Registration provisionally found that respondent had not sufficiently provided clear and convincing evidence of rehabilitation. (Exhibit D, copy of transcript of hearing concerning respondent's application for registration as a Home Improvement Contractor, pg. 7, lines 19 thru 25; pg. 8, lines 1 thru 4, attached).

6. On September 29, 2006, respondent appeared before the Acting Director of the New Jersey Division of Consumer Affairs for a hearing concerning the provisional denial of respondent's application. Regarding the specifics of the offense, respondent's answers were largely consistent with the documentation related to his arrest and psychological evaluation. Respondent acknowledged he had a sexual attraction to children and being diagnosed with pedophilia. During the inquiry respondent admitted to frequent use of alcohol and marijuana for a six-month period immediately prior to the occurrence for which he was arrested. However, respondent admitted that alcohol and substance abuse was not the reason he offended. Respondent also acknowledged other situations where he had sexual involvement with as many as 10 other prepubescent girls. Finally, respondent mentioned that he was involved in Bible study group at his church, where he taught boys ages six to twelve. When questioned about his involvement with a youth group and the possibility of a relapse, respondent replied that he "do[esn't] . . . work with the girls. That is my choosing." (Exhibit D, copy of transcript of hearing concerning respondent's application for registration as a Home Improvement Contractor, attached).

7. The Division filed a Final Order of Denial of Registration, dated December 21, 2006, denying respondent's application for registration as a Home Improvement Contractor. The Division considered the letters of recommendation provided on respondent's behalf; a psychological report from Elliot L. Atkins, Ed.D, who provided individual psychotherapy to respondent; as well as a report from Timothy P. Foley, Ph.D., dated July 21 2006. Despite favorable reports from Dr. Atkins and Dr. Foley, the Division denied respondent's application for registration as a Home Improvement Contractor. The Division found that respondent's conviction for 2nd degree Aggravated Sexual Assault is a crime involving moral turpitude relating adversely to the activity regulated by the Home Improvement Registration Act, pursuant to N.J.S.A. 56:8-141b(6). The Division also determined, based upon the entire record, that respondent failed to demonstrate rehabilitation by clear and convincing evidence according to the factors set forth in N.J.S.A. 56:8-141f. (Exhibit E, copy of Final Order of Denial of Registration as a Home Improvement Contractor, dated December 22, 2006, attached).

8. Respondent appeared before the Board at an Investigative Inquiry on August 14, 2014 concerning his application for licensure as a HVACR contractor. Respondent indicated that he is currently retired from the HVACR business, but hopes to obtain his license and engage in residential HVACR work. Respondent's testimony to the Board was contrary to the information contained in the ADTC Psychological Report, contrary to the information contained in the Adult Presentence Report, and was contrary to the testimony he previously provided to the Division in support of his application for registration as a Home Improvement Contractor. Respondent now indicated that the victim, M.R., was 16 years old at the time he offended against her and that he only offended against her on one occasion. Respondent repeatedly and adamantly denied he offended against M.R. on twelve different occasions. He also denied having offended against his 10 year old niece. (Exhibit F, copy of transcript of investigative inquiry before the Heating, Ventilating, Air Conditioning and Refrigeration Board, dated August 14, 2014, pg. 12, lines 22 thru 25; pg. 13, lines 1 thru 15; pg. 14, lines 15 thru 25; pg. 15, lines 1

thru 25; pg. 16, lines 1 thru 25; pg. 17, lines 1 thru 25; pg. 18, lines 1 thru 25; pg. 19, lines 1 thru 25; pg. 20, lines 1 thru 25; pg. 22, lines 1 thru 17; pg. 23, lines 22 thru 25; pg. 24, lines 1 thru 3, attached).

9. Respondent acknowledged a sexual attraction to young girls and admitted to a history of sexual arousal and ejaculation associated with young females. Respondent was in his forties when he offended against M.R. but admitted his attraction to young girls started as a teenager. Respondent initially denied his attraction to young girls was an addiction, despite previously indicating in response to a sexuality questionnaire during the ADTC evaluation, "the hardest thing about accepting my sexual arousal feelings is that it is an addiction." Eventually, respondent conceded that his attraction to young girls was similar to being addicted to drugs or alcohol that can't be eradicated, only controlled. When asked how he learned to control his addiction, respondent replied "With the Lord." (Exhibit F, copy of transcript of investigative inquiry before the Heating, Ventilating, Air Conditioning and Refrigeration Board, dated August 14, 2014, pg. 22, lines 4 thru 25; pg. 23, lines 1 thru 16; pg. 28, lines 17 thru 25; pg. 29; lines 1 thru 25; pg. 30. Lines 1 thru 25; pg. 31; lines 1 thru 5, attached). (Exhibit C, copy of the Adult Diagnostic and Treatment Center Psychological Report, attached).

10. In his testimony before the Board, respondent continued to deny many of the facts and circumstances concerning his offenses which were contained in the ADTC Psychological Report, the Adult Presentence Report, and the testimony he provided to the Division in support of his application for registration as a Home Improvement Contractor. Respondent did not acknowledge that M.R. was eight years old when he offended against her. Rather, he stated on two occasions during his testimony "in my mind, she was 16." Respondent also denied discussing foreplay with his victim, and continued to deny or didn't recall having offended against his niece, contrary to the reports and respondent's previous testimony. (Exhibit F, copy of transcript of investigative inquiry before the Heating, Ventilating, Air Conditioning and

Refrigeration Board, dated August 14, 2014, pg.16, lines 13 thru 21; pg. 35, lines 10 thru 18; pg. 31, lines 13 thru 25; pg. 32, lines 1 thru 25; 34, lines 12 thru 25, attached).

11. Respondent was asked about his treatment at the ADTC as well as his ability to prevent reoffending. Respondent stated that his treatment consisted of how not to be a victim and owning up to the past. When asked if he was owning up to his past and why his testimony differed from the information he provided to Dr. McNeil during the ADTC evaluation, respondent stated that Dr. McNeil possibly coerced him into saying things that he really didn't want to say or shouldn't have said. When asked specifically what he does to prevent reoffending, respondent replied "Once I became saved, I realized in my mind that it's a sin to do." Respondent attributes his salvation as being the reason why he will never re-offend, more so than any treatment he received at the ADTC. (Exhibit F, copy of transcript of investigative inquiry before the Heating, Ventilating, Air Conditioning and Refrigeration Board, dated August 14, 2014, pg. 38, lines 24 thru 25; pg. 39, lines 1 thru 25; pg. 40, lines 1 thru 25; pg. 41, lines 1 thru 25; pg. 42, lines 1 thru 25; pg. 43, lines 1 thru 5, attached).

12. Respondent has not been engaged in psychological treatment since his release from the ADTC in June of 1996. All of his counseling is of a spiritual nature with no psychological or current psychiatric treatment. He was not familiar with the "triggers" that might cause him to re-offend. In terms of relapse prevention techniques, respondent indicated he prays. If "an inkling" comes into his mind regarding a young girl, he will "pray it away." Respondent acknowledged he still has "inclinations" regarding young girls and solely uses prayer to deal with the inclinations. (Exhibit F, copy of transcript of investigative inquiry before the Heating, Ventilating, Air Conditioning and Refrigeration Board, dated August 14, 2014, pg. 45, line 25; pg. 46, lines 1 thru 25; p. 47, lines 1 thru 25; pg. 48, lines 22 thru 25; pg. 49, lines 21 thru 25; pg. 50, lines 1 thru 13, attached).

CONCLUSIONS OF LAW

1. The above preliminary findings of fact provide grounds for denying respondent's application for a Heating, Ventilating, Air Conditioning and Refrigeration Contractor's license in New Jersey, pursuant to N.J.S.A. 45:1-21(f), in that respondent's conviction for 2nd degree Sexual Assault, pursuant to N.J.S.A. 2C:14-2b, as well as his admission that he offended against the victim M.R. on at least three occasions, are acts constituting crimes and offenses involving moral turpitude and relating adversely to the activity regulated by the Board.

2. The above preliminary findings of fact provide grounds for denying respondent's application for a Heating, Ventilating, Air Conditioning and Refrigeration Contractor's license in New Jersey, pursuant to N.J.S.A. 45:1-21(i), in that respondent's admission of his lifelong sexual attraction to young prepubescent females, which continues currently, makes him incapable of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare.

DISCUSSION

HVACR contractors, as part of their professional functions, are required to enter homes. Consumers must be assured that licensed professionals who enter their homes are of good moral character and can be trusted. Furthermore, the particular crime respondent was convicted of, involved a child. Children are a most vulnerable class of consumer. The Board is entrusted with the obligation of protecting consumers. Therefore, respondent's conviction provides a sufficient basis for the Board to deny respondent a HVACR contractor's license.

ACCORDINGLY, IT IS on this 1st day of September, 2015
ORDERED that:

1. Respondent's application for a Heating, Ventilating, Air Conditioning and Refrigeration Contractor's license in New Jersey is hereby provisionally denied.

2. The within Order shall be subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry hereof unless respondent requests a modification or dismissal of the above stated Findings of Fact or Conclusions of Law by:

a) Submitting a written request for modification or dismissal to Rosemarie S. Baccile, Acting Executive Director, New Jersey Board of Heating, Ventilation, Air Conditioning, and Refrigerator Contractors, P.O. Box 47031, Newark, New Jersey 07101.

b) Setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed.

c) Submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor or offered in mitigation of the terms in this Provisional Order of Denial.

3. Any submissions will be reviewed by the Board, and the Board will thereafter determine whether further proceedings are necessary. If no material discrepancies are raised through a supplemental submission during the thirty-day period, or if the Board is not persuaded that submitted materials merit further consideration, a Final Order of Denial will be entered.

4. In the event that respondent's submissions establish a need for further proceedings, respondent shall be notified with regard thereto.

NEW JERSEY STATE BOARD OF EXAMINERS OF
HEATING, VENTILATING, AIR CONDITIONING AND
REFRIGERATION CONTRACTORS

By: 
Michael J. Maloney
Board Chairman

EXHIBIT A

90-3338(4)

State of New Jersey

New Jersey Superior Court
Burlington County
Law Division - Criminal

v.

Harvey Phillip Scelso
Defendant (Specify Complete Name)

- Judgment of Conviction
- Change of Judgment
- Order for Commitment
- Indictment/Accusation Dismissed
- Judgment of Acquittal

11/20/43..... DATE OF BIRTH
 199594B..... S.B.I. #
 11/20/90..... DATE OF ARREST
 10/31/91..... DATE IND / ACC FILED
 12/12/91..... DATE OF ORIGINAL PLEA
 NOT GUILTY GUILTY ORIGINAL PLEA

ADJUDICATION BY: DATE
 GUILTY PLEA 8/10/93
 JURY TRIAL _____
 NON-JURY TRIAL _____
 Dismissed/Acquitted _____

ORIGINAL CHARGES

IND / ACC No.	Count	Description	Degree	Statute
91-10-0859-I	1	Agg. Sexual Assault	1	2C:14-2a(1)
	2	Sexual Assault	2	2C:14-2b
	3	Endangering Welfare of Child	3	2C:24-4a

FINAL CHARGES

Count	Description	Degree	Statute
2	Sexual Assault (sentenced as 3rd degree)		2C:14-2b

It is, therefore, on 3/18/94 ORDERED and ADJUDGED that the defendant is sentenced as follows:

Defendant is committed to the custody of the Commissioner of Corrections for confinement at the New Jersey Adult Diagnostic Treatment Center at Avenel for a period of 3 years.

The Court stayed the execution of the custodial sentence until there is space available at Avenel.

Dismiss Counts 1 and 3.

It is further ORDERED that the sheriff deliver the defendant to the appropriate correctional authority.

Defendant is to receive credit for time spent in custody (N.J.S.A. 2C:43-6).
 TOTAL NO DAYS 2 days DATES (From - To) 11/20/90 to 11/21/90

Defendant is to receive gap time credit for time spent in custody [N.J.S.A. 2C:44-5b(2)].
 TOTAL NO DAYS _____ DATES (From - To) _____

Total Custodial Term 3 years Institution NJ Adult Diagnostic Treatment Cntr., at Avenel Total Probation Term _____

Harvey Phillip Scelso
SBI 1995984B
91-10-0859-I

AGGRAVATING FACTORS:

3. The risk that the defendant will commit another offense.
4. A lesser sentence will depreciate the seriousness of the defendant's offense because it involved a breach of the public trust under Chapters 27 and 30, or the defendant took advantage of a position of trust or confidence to commit the offense. 9. The need for deterring the defendant and others from violating the law.

MITIGATING FACTORS:

2. The defendant did not contemplate that his conduct would cause or threaten serious harm. 7. The defendant has no history of prior delinquency or criminal activity or has led a law-abiding life for a substantial period of time before the commission of the present offense. 9. The character and attitude of the defendant indicate that he is unlikely to commit another offense. 10. The defendant is particularly likely to respond affirmatively to probationary treatment. 12. The willingness of the defendant to cooperate with law enforcement authorities.

EXHIBIT B

P. Confidential Practice

ADULT PRESENTENCE REPORT Superior Court of New Jersey Criminal Division Case Management Office UDIR-H		DEFENDANT'S NAME: Scelso, Harvey Phillip	
COUNTY: Burlington		PROSECUTOR/PROMIS NUMBER: 90-3338(01)	
INDICTMENT/ACCUSATION/COMPLAINT NO.:		FILESPH:	
91-10-0859-I		16144	
CONFIDENTIAL			
This report shall remain confidential and copies thereof shall not be made nor the disclosure of the contents of such report be made to third persons except as may be necessary in subsequent court proceedings involving the sentence imposed or disposition made.			
AKA: N/A	BIRTHDATE: 11/20/43	AGE: 49	SEX: <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female
RACE: CAUCASIAN	BIRTHPLACE: N.J.	SOCIAL SECURITY NUMBER: 146-34-6850	SBI NUMBER: 199594B
ADDRESS: 502 Raritan Avenue, Atco, NJ		ZIP CODE: 08004	TELEPHONE NUMBER: 768-9167
ORIGINAL CHARGES: Agg. Sexual Assault Sexual Assault Endangering Welfare of a Child		FINAL CHARGES: 91-10-0859-I Ct. 2) Sexual Assault 2C:14-2b (Second Degree) D. McNEIL	
PLEA AGREEMENT / SPECIAL FACTORS: Sentenced as 3rd offender. No period of parole ineligibility. No fine under R 3:9-3(c) Court had indicated it will impose maximum sentence of 4 yrs. Bail to continue to sentencing. Deft. to withdraw all pending motions. Deft. reserves right to contest findings of ADTC.		MANDATORY MINIMUM SENTENCE PURSUANT TO N.J.S.A. 2C: <input type="checkbox"/> 11-3 <input type="checkbox"/> 11-5 <input type="checkbox"/> 12-2 <input type="checkbox"/> 13-1 <input type="checkbox"/> 14-6 <input type="checkbox"/> 20-11 <input type="checkbox"/> 29-6 <input type="checkbox"/> 35-3 <input type="checkbox"/> 35-4 <input type="checkbox"/> 35-5 <input type="checkbox"/> 35-6 <input type="checkbox"/> 35-7 <input type="checkbox"/> 35-8 <input type="checkbox"/> 43-8 <input type="checkbox"/> 43-7 <input type="checkbox"/> Pending Charges <input type="checkbox"/> Detainers	
ARREST DATE: 11-20-90	OFFENSE DATE: between June 89 and Jan 90	JUDGE'S NAME: Donald P. Gaydos	
CONVICTION/PLEA DATE: 8/10/93	SENTENCE DATE: 3-18-94	ATTORNEY NAME: Glenn Zeitz	<input type="checkbox"/> Public Defender <input checked="" type="checkbox"/> Private <input type="checkbox"/> Assigned
CUSTODIAL STATUS: <input type="checkbox"/> Jail <input type="checkbox"/> ROR <input checked="" type="checkbox"/> Bail		ADDRESS: 1230 Brace Rd. Cherry Hill, NJ 08002	TEL. NUMBER: 795-6660
BAIL AMOUNT: \$5000 10%	DATE BAIL RECEIVED: 11-21-90	ASSISTANT PROSECUTOR'S NAME: James Ronca, Asst. Prosecutor	
JAIL TIME CREDIT			
FROM (DATE): 11-20-90	TO (DATE): 11-21-90	NUMBER OF DAYS: 2	TOTAL JAIL TIME CREDIT: 2 days
COMMENTS:			
CASE SUPERVISOR: Nanette Sheerin	DATE PREPARED: 11/18/93	TEAM LEADER: Albert E. Freeman II	DATE APPROVED: 2/1/94

OFFENSE INFORMATION
UDIR-E

DEFENDANT'S NAME: HARVEY PHILLIP SCELISO

1. OFFENSE CIRCUMSTANCES:

On November 10, 1990 at approximately 10:00 p.m., Patrolman Locantore of the Evesham Township Police Department, was dispatched to 168 Mill Road to investigate a sexual assault complaint reported by Barbara and James Miller involving their nine year old daughter, M.R. (DOB: 11/22/81). When the officer arrived on the scene he met with Mrs. Barbara Miller who related the following: At approximately 9:00 p.m. that night Mrs. Miller was discussing the facts of life with her daughter, M.R., and after the conversation, M.R. went to bed. Within half an hour M.R. came out of her room crying and told her mother that on various occasions in the summer of 1989 she was sexually touched by Harvey Scelso, a friend of the family who is also employed by Mr. Miller's plumbing company. M.R. stated that during these instances the defendant would fondle her vagina, buttocks and boobs and would put vaseline on his finger and insert it into her vagina. The acts took place in her residence either in the living room or bedroom area. There were also incidences which took place in the defendant's swimming pool at his residence and also in his car. The activities appeared to have taken place during a time period extending from June of 1989 through October of 1989. They finally ended in October of 1989 when M.R. threatened to tell her parents what was going on. M.R. went on to say that Scelso told her it was okay to do these things and that he did these things with his fifteen year old daughter, D.S., and she liked them. He also told her these acts were called foreplay and explained it was what her mother and father did. The case was then turned over to Detective Brown for further investigation.

On November 10, 1990, Harvey Scelso was placed under arrest and charged with Aggravated Sexual Assault and Endangering the Welfare of a Child.

2. SPECIAL FACTORS RELATIVE TO OFFENSE:

On November 16, 1990, Detective Brown and Mrs. Miller proceeded to the prosecutor's office along with nine year old M.R. A taped statement was taken from Mrs. Miller by Detective Brown in which she reported that Harvey Scelso was employed by her husband, James Miller, who operated a plumbing business out of their residence located at 168 Mill Road in Marlton. Scelso would frequent that location in the course of his occupational duties and as a friend of the family. On Tuesdays and Thursdays Mrs. Miller worked outside the home and at that time Susanne Stephens, her husband's secretary, would volunteer to watch M.R. after school until the Millers arrived home. It was on these days also that Harvey Scelso would often appear and volunteer to babysit for M.R. at the house or he would take her for a visit to his house. Frequently Scelso would abuse M.R. on these days. M.R. was also interviewed by Investigator Bray of the Burlington County Prosecutor's Office and gave a video recorded statement which was consistent with the account she gave previously to her mother and reported to Patrolman Locantore. Based on the above information the arrest warrant was issued for the defendant.

On November 19, 1990, M.R. was examined by Dr. Martin Finkel. It was Dr. Finkel's opinion that, based on historical data presented by M.R. and a physical examination he had performed on her, that the child had experienced age inappropriate genital fondling. (Her hymen was stretched enough to allow for digital penetration.)

3. DEFENDANT'S VERSION:

"Fondled a child under the age of 13 for her gratification."

4. VICTIM'S STATEMENT ATTACHED:

[X] Yes [] No If "No" Check Reason
REASON: [] No Response [] Not Applicable
Date Request Made:

SCELSO, HARVEY PHELLIP
SYSTEM # 90-3338(01)

VICTIM'S STATEMENT:

This officer telephoned the victim's parents and twice left messages on their answering machine requesting a statement on behalf of their daughter. To date the Millers have not responded.

PRIOR COURT HISTORY
UDIR-F

DEFENDANT'S NAME: HARVEY PHILLIP SCELSO

DISCUSSION OF PRIOR COURT AND PENDING CHARGES:

The current offense represents the defendant's only known arrest.

PRIOR COURT HISTORY

DATE	PLACE	OFFENSE	DISPOSITION
11/20/90	Evesham Twp., NJ	1. Aggravated Sexual Assault 2. Sexual Assault 3. Endangering Welfare of Child	91-10-0859-I Cts. 1 and 3 - To be dismissed at sentence Ct. 2 - Present Offense

EXHIBIT C

ADULT DIAGNOSTIC AND TREATMENT CENTER
AVENEL, NEW JERSEY

CONFIDENTIAL
DO NOT RELEASE TO
UNAUTHORIZED PERSONS

NAME: SCELSO, Harvey (S21,673) BORN: 11/20/43 EXAMINED: 12/15/93
502 Raritan Avenue
Atco, New Jersey

JUDGE: Gaydos COUNTY: Burlington AUTHORITY: N.J.S. 2C:47-1

PRESENTING PROBLEM:

Mr. Harvey Scelso is a 50-year-old man referred by the Burlington County Court for a psychological evaluation to determine his eligibility for sentencing under the purview of the New Jersey Sex Offender Act. Mr. Scelso was convicted of Sexual Assault by plea bargain agreement on 8/10/93.

The Presentence Investigation Report (PSI) was reviewed prior to this evaluation, along with appended documents that included a treatment summary report by Dr. Elliot Atkins (11/15/93).

RELEVANT OFFENSE INFORMATION:

According to the PSI, Mr. Scelso sexually abused a 7-8 year old girl on repeated occasions between June, 1989-January, 1990. According to the victim, sexual behaviors included Mr. Scelso fondling her vagina, buttocks, and "boobs," digital vaginal penetration, and one incident in which Mr. Scelso asked her to touch his penis. The victim has estimated approximately 12 such incidents that took place in the defendant's home, the defendant's home, and in the defendant's swimming pool. Mr. Scelso was known to the victim as a family friend.

No prior criminal history has been reported.

PHYSICAL EXAMINATION:

In the absence of a physician, a nurse's report as to the physical findings and patient history was conducted by Maureen Talwani, R.N. It is as follows: Mr. Scelso stated that he is 5'5" tall and weighs 200 lbs. He denied having any illnesses, injuries or hospitalizations. He admitted taking Zoloft 50 mgs. for depression. He is allergic to Penicillin. Blood Pressure is 158/83; Pulse is 98.

PSYCHOLOGICAL TEST RESULTS:

Tests administered: Shipley Institute of Living Scale, MMPI-2, House-Tree-Person Test (HTP), Incomplete Sentences Blank, and Sexuality Questionnaire.

On the Shipley, Mr. Scelso achieved a Vocabulary Score at the 46th percentile, an Abstraction Score at the 84th percentile, and a Total Score at the 73rd percentile, suggesting intellectual functioning in the Average range.

On the MMPI-2, Mr. Scelso produced a valid profile, with profile elevations notable for antisocial tendencies, poor frustration tolerance, and a self-centered, hedonistic nature. No evidence of severe psychopathology was indicated, however. Mr. Scelso appears to have responded to the test in an open and honest manner.

- 2 -

Drawings on the HTP were adequately organized, with no evidence of gross neuropsychological impairment. Of clinical interest was the childlike appearance of a female human figure, consistent with a history of sexual attraction to young girls.

Responses on the Incomplete Sentences Blank and Sexuality Questionnaire were notable for apparently sincere regrets for the present offense, current feelings of subjective distress, and religious ideation. One particularly notable response on the Sexuality questionnaire was, "The hard thing about accepting my sexual feelings is ... ~~that it is an addiction.~~"

PSYCHOLOGICAL EXAMINATION:

Mr. Scelso presented for the clinical interview as neatly dressed in casual clothes, with no unusual behaviors noted. He was fully oriented in all spheres, and speech was coherent and logically constructed. Stated mood was, "Good," though when questioned further about this, Mr. Scelso acknowledged ongoing anxiety regarding his legal situation. Affect was rangeful and appropriate. Suicidal and homicidal ideations were denied. No evidence of psychotic or dissociative symptoms was reported or observed. Memory functioning appeared grossly intact. Social judgment reflected a lack of appreciation for the possible consequences of his actions. Psychological insight was good.

Personal history as reported was notable for a difficult childhood, in which Mr. Scelso described frequent beatings at the hands of his father. He said he responded by trying to stay away from home as much as possible. In school, Mr. Scelso denied any history of learning problems, though he acknowledged minor behavior problems, such as cutting class and talking in class. Mr. Scelso's discussion of his childhood was notable for themes of inadequacy and insecurity, as described by Dr. Atkins in his treatment summary report.

As an adult, Mr. Scelso denied any history of work problems, significant substance abuse, or involvement in criminal activities. He acknowledged one brief period of outpatient mental health counseling prior to the present offense, after he was discovered several years ago sexually molesting a 10-year-old niece (see below). Mr. Scelso said that he and his wife attended about six therapy sessions, but he discontinued treatment due to financial problems.

Sexual history as reported was notable for a chronic history of sexual attraction to young girls in the 8-11 year old range, beginning when Mr. Scelso was an adolescent. Mr. Scelso reported that his sexual attraction to young girls has generally been limited to fantasy, and always involves his fondling young girls, with no interest in sexual intercourse. Mr. Scelso acknowledged a history of sexual arousal and ejaculation associated with such fantasies, most typically involving nocturnal emissions ("wet dreams"). Mr. Scelso acknowledged sexual involvement with one previous victim, a 10-year-old niece, that included fondling her vaginal area on one occasion several years ago. He said that his wife found him doing this and was extremely angry. He said that the two attended mental health counseling briefly as a result, but stopped due to financial problems. As to his treatment progress at the time, Mr Scelso acknowledged that he

- 3 -

was not ready for help, and received little benefit from treatment. As to how he avoided sexually acting out similar impulses with other children, Mr. Scelso said that he simply avoided high risk situations, such as being alone with young girls. He acknowledged that he specifically avoided such situations in a planned attempt to control himself.

Regarding other sexual history, Mr. Scelso reported that he became sexually active with peer females during adolescence, and that he maintained satisfactory sexual relationships with several girlfriends prior to marrying his present wife when he was 26 years old. He did acknowledge one difficult sexual experience when he was 19 years old and he was unable to achieve an erection when attempting sexual intercourse with a girlfriend, who later told his friends about this. He said that it took him about two years before he dated again. Regarding his marriage, Mr. Scelso acknowledged a history of sexual frustration, which he attributed to his desire for more frequent sexual relations than his wife. Mr. Scelso also acknowledged concerns regarding "very short orgasms," but he denied other sexual problems.

Regarding the present offense, Mr. Scelso readily acknowledged sexually molesting the victim by fondling her and performing digital vaginal penetration. He described only three such incidents, however, in comparison to the victim's account of more frequent sexual abuse. Mr. Scelso offered no explanation as to the differences in the victim's account, other than stating that he was alone with the victim at least 12 times, but only sexually abused her on three occasions. Mr. Scelso furthermore denied ever threatening the victim, exposing himself to her, or telling her that he had similarly sexually abused his own daughter. Mr. Scelso had no idea as to why the victim would say such things.

Other than the differences in Mr. Scelso's account of the present offense and the victim's account, Mr. Scelso accepted full responsibility for sexually abusing the victim, placing no blame whatsoever on her. He appeared sincerely remorseful for what he did, and he has clearly benefited from his treatment to date. Mr. Scelso readily acknowledged that his sexual attraction to young girls has been a significant problem for him, and he described it in terms of an addiction. Mr. Scelso said that he realized he would never be cured, and that he will always remain at some risk for similar behaviors in the future. He said that he has learned to manage such risks more appropriately by distracting himself whenever such fantasies arise, and concentrating on the impact of what he has done on the present victim and his niece. Mr. Scelso appeared sincerely motivated to continue treatment, and he expressed an interest to be sentenced to the ADTC should he receive a custodial sentence.

EVALUATION AND RECOMMENDATION:

Mr. Harvey Scelso presents at this time having been convicted of Sexual Assault, that involved sexually abusing a young girl on repeated occasions when she was 7-8 years old. No previous criminal history has been reported.

Based on the results of this evaluation, it is clear that the present offense represents a pattern of repetitive and compulsive sexual behaviors. Mr. Scelso's discussion of his sexual history indicates that he has been sexually attracted to young girls for many years, and he has actively struggled to resist impulses to act out pedophilic fantasies. Prior to this offense, Mr. Scelso admits to sexually abusing one previous victim in a similar

manner, resulting in a brief period of outpatient mental health treatment. Despite his participation in previous treatment and his recognition that he could get in serious trouble for such behavior, Mr. Scelso was unable to resist the associated sexual impulses in the present case. Such a pattern is definitive of compulsive sexual behavior.

In conclusion, the results of this evaluation indicate that Mr. Scelso is eligible for sentencing under the purview of the New Jersey Sex Offender Act. From a clinical perspective, it would appear that Mr. Scelso is an appropriate candidate for a probationary sentence, to include ongoing mental health treatment as a stipulation of probation. If, on the other hand, Mr. Scelso receives a custodial term, he would most appropriately be sentenced to the ADTC.

*Clinically a
recommended
patient.*

Kenneth L. McNeil, Ph.D.
Kenneth L. McNeil, Ph.D.
Principal Clinical Psychologist

KLM:ik

EXHIBIT D

Scelso 9-29-2006

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NEW JERSEY OFFICE OF THE ATTORNEY GENERAL
OFFICE OF CONSUMER PROTECTION
DEFAULT HEARINGS

ORIGINAL

IN THE MATTER OF: :
: TRANSCRIPT
MAHD SYSTEMS, L.L.C. : OF
- - - - - PROCEEDINGS

STATE OF NEW JERSEY
124 HALSEY STREET, 7TH FLOOR
NEWARK, NEW JERSEY
Friday, September 29, 2006

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Transcript
(1 - 72)
(23)

1 B E F O R E:

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STEPHEN B. NOLAN, Acting Director

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JOHN D. HUGELMEYER, D.A.G.

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JOHN P. KULINA, Investigator

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A P P E A R A N C E S:

JOHN D. HUGELMEYER, ESQ.
Deputy Attorney General for the Acting
Director
124 Halsey Street, Box 45029
Newark, New Jersey 07101

GINGER PROVOST, ESQ.
Deputy Attorney General for the State of
New Jersey
124 Halsey Street, Box 45029
Newark, New Jersey 07101

25

I N D E X

WITNESS	PAGE
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HARVEY SCELSON

By: Deputy Provost	10
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E X H I B I T S

NUMBER	DESCRIPTION	PAGE
--------	-------------	------

S-1	Application	5
-----	-------------	---

S-2	Letter dated September 8, 2005	5
-----	-----------------------------------	---

S-3	Handwritten letter	5
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S-4	Letter dated February 7, 2006	5
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S-5	Letter dated March 4, 2006	5
-----	----------------------------	---

S-6	Handwritten letter dated 11/21/05	5
-----	--------------------------------------	---

S-7	Letter dated March 6, 2006	6
-----	----------------------------	---

S-8	Letter dated July 21, 2006	6
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(Exhibits retained.)

1 (The time is approximately 10:00
2 a.m.)

3 (Whereupon, an Application is
4 received and marked as State's Exhibit
5 S-1 for Identification.)

6 (Whereupon, a Letter dated
7 September 8, 2005 is received and marked
8 as State's Exhibit S-2 for
9 Identification.)

10 (Whereupon, a Handwritten letter
11 is received and marked as State's Exhibit
12 S-3 for Identification.)

13 (Whereupon, a Letter dated
14 February 7, 2006 is received and marked
15 as State's Exhibit S-4 for
16 Identification.)

17 (Whereupon, a Letter dated March
18 4, 2006 is received and marked as State's
19 Exhibit S-5 for Identification.)

20 (Whereupon, a Handwritten letter
21 dated 11/21/05 is received and marked as
22 State's Exhibit S-6 for Identification.)

23 (Whereupon, a Letter dated March
24 6, 2006 is received and marked as State's
25 Exhibit S-7 for Identification.)

1 (Whereupon, a Letter dated July
2 21, 2006 is received and marked as
3 State's Exhibit S-8 for Identification.)

4 MR. NOLAN: Good morning.

5 THE WITNESS: Good morning.

6 MR. NOLAN: My name is Steve
7 Nolan. I'm the Acting Director of the Division
8 of Consumer Affairs. This is a hearing on the
9 application of Mahd Systems, L.L.C. for
10 registration as a home improvement contractor
11 under the Contractor Registration Act, N.J.S.A.
12 56:8-136, et seq. Docket No. 06-085.

13 Mr. Scelso?

14 THE WITNESS: Yes.

15 MR. NOLAN: Mr. Scelso, you are
16 appearing here today yourself obviously, yes?

17 THE WITNESS: Yes.

18 MR. NOLAN: Do you have an
19 attorney representing you?

20 THE WITNESS: No.

21 MR. NOLAN: Do you wish to have an
22 attorney represent you in the context of these
23 proceedings?

24 THE WITNESS: I don't think I'll
25 need one.

1 MR. NOLAN: You understand though
2 you can and you have an opportunity to do that
3 and you are choosing not to?

4 THE WITNESS: Yes.

5 MR. NOLAN: Can I have the
6 appearance of counsel for the state?

7 DEPUTY PROVOST: Ginger Provost,
8 Deputy Attorney General.

9 MR. NOLAN: Ms. Provost, can you
10 just summarize the procedural background in
11 terms of where we have been up to now and what
12 we are here for today?

13 DEPUTY PROVOST: Sure. Mr. Scelso
14 is the owner of a limited liability corporation
15 by the name of Mahd Systems, L.L.C. and he has
16 applied for registration as a home improvement
17 contractor registration under N.J.S.A. 56:8-136,
18 et seq.

19 The application was filed I
20 believe prior to December 31, 2005 and
21 subsequent to the filing of the application,
22 additional documents were received and after
23 further review, a provisional order of
24 registration was issued on December 5, 2000 --
25 I'm sorry, December 12, 2005 provisionally

1 denying registration based on the fact that Mr.
2 Scelso had prior criminal history of sexual
3 assault and had not sufficiently provided clear
4 and convincing evidence of his rehabilitation.

5 Subsequent to the filing of the
6 provisional order of denial of registration, Mr.
7 Scelso did agree to undergo a psychological
8 evaluation and has submitted a report as a
9 result of that evaluation and is here today upon
10 request that this hearing take place in order to
11 make a final determination.

12 MR. NOLAN: Mr. Scelso, do you
13 have anything you want to add to the materials
14 that have been submitted?

15 THE WITNESS: No.

16 MR. NOLAN: Do you understand this
17 is your opportunity to present evidence, clear
18 and convincing evidence of rehabilitation that
19 would justify a change of the position that has
20 already been entered?

21 THE WITNESS: The only evidence I
22 have is what you already have here and other
23 than my work case for the past twelve years,
24 fifteen years.

25 MR. NOLAN: Ms. Provost, do you

1 have any objection to entering this into
2 evidence?

3 THE WITNESS: No, I don't.

4 MR. NOLAN: I'll accept S-1 into
5 evidence.

6
7 EXAMINATION

8 BY DEPUTY PROVOST:

9 Q. Mr. Scelso, you have also
10 submitted a number of reference letters, is that
11 correct?

12 A. Yes, I do.

13 Q. From Terry R. Smith, assistant
14 pastor of the Hardingville Bible Church
15 submitted a letter on September 8, 2005 on your
16 behalf, is that correct?

17 A. Yes, it is.

18 DEPUTY HUGELMEYER: Why don't we
19 swear the witness now and ask him to confirm his
20 prior answers.

21
22 HARVEY SCELSON,
23 having been first duly sworn by a Notary Public
24 within and for the State of New Jersey, was
25 examined and testified under oath as follows:

1 MR. NOLAN: Mr. Scelso, can you
2 just confirm that the prior answers that you
3 gave to questions, that those were given as if
4 under oath and that they are true?

5 THE WITNESS: Yes, they are.

6 MR. NOLAN: Thank you.

7 Q. Can you tell us what your
8 relationship today is with Mr. Smith?

9 A. Well, Mr. Smith at the time was
10 our full-time pastor. He's just now a friend
11 because he's in a different church.

12 Q. When was the last time you had
13 contact with him?

14 A. At our picnic three weeks ago.

15 Q. Other than asking him to write a
16 recommendation letter for you, what is your
17 relationship with him today?

18 A. I would say at this point a casual
19 friend.

20 Q. How often do you see him?

21 A. Maybe three times a year because
22 he lives so far away now.

23 Q. Is the letter that he wrote for
24 you which here is identified by the designation
25 S-2 for Identification, is that the letter?

1 A. Yes, it is.

2 Q. Was this written by you in any
3 way?

4 A. No.

5 Q. Did you participate in advising
6 him what to say specifically?

7 A. No.

8 DEPUTY PROVOST: I'd like to have
9 this marked as S-2.

10 MR. NOLAN: Mr. Scelso, any
11 objection to introducing this into evidence?

12 THE WITNESS: No objection.

13 MR. NOLAN: I'll accept S-2.

14 Q. Mr. Scelso, I have here a copy of
15 a letter that is addressed to whom it may
16 concern and it appears the signature is of David
17 L. Hopkins. Can you identify that as such?

18 A. Yes, it is.

19 Q. Is that a letter that you
20 requested Mr. Hopkins write on your behalf?

21 A. Yes.

22 Q. As it appears here, it is
23 addressed to whom it may concern?

24 A. Yes.

25 Q. Was it written specifically for

1 you as a recommendation to obtain a home
2 improvement contractor license?

3 A. Yes, I requested him to do that
4 for me, character witness I think I called it.

5 Q. What is your relationship to
6 Mr. Hopkins?

7 A. He is my deacon at church.

8 Q. Is that a current position?

9 A. Yes.

10 Q. When you say deacon --

11 A. Yes.

12 Q. What church is it that you are
13 affiliated with?

14 A. Fellowship Baptist Church in West
15 Berlin, New Jersey.

16 Q. How long have you been affiliated
17 with that church?

18 A. Since 1996.

19 Q. Did you participate in drafting
20 this letter at all?

21 A. No, I just gave him the basics of
22 what I needed and he did it on his own.

23 Q. This was submitted by him directly
24 to you or was it sent into the Division?

25 A. He presented it to me which I in

1 turn mailed it in.

2 Q. S-3 that we have here, is that the
3 letter that Mr. Hopkins wrote or a copy of it?

4 A. Yes.

5 DEPUTY PROVOST: I'd like to have
6 this entered into evidence.

7 MR. NOLAN: Any objection?

8 THE WITNESS: No.

9 MR. NOLAN: I'll accept S-3.

10 Q. Mr. Scelso, I have here a letter
11 which appears to be from a Michael A. Pagliuso
12 dated February 7, 2006 which identifies it as
13 being a letter of reference for Harvey P.
14 Scelso. It is marked here as S-4 for
15 Identification. Is that a letter that you
16 submitted?

17 A. Yes.

18 Q. Or asked Mr. Pagliuso to submit on
19 your behalf?

20 A. Yes, I did.

21 Q. What is your relationship with Mr.
22 Pagliuso?

23 A. At the time he was also my deacon.

24 Q. At the time, when you say --

25 A. When the letter was written.

1 Q. That would have been February '06?

2 A. Yes.

3 Q. Is he no longer in that position?

4 A. He is no longer with our church.

5 Q. How did he come to write this
6 letter on your behalf?

7 A. Because he was the deacon that
8 accepted me in the church and knew about my
9 background. He was one of the deacons.

10 Q. When you say who knew about my
11 background, can you describe what you have
12 advised Mr. Pagliuso about your background?

13 A. At the time or I'm not clear on
14 the question.

15 Q. The question is what exactly have
16 you disclosed to Mr. Pagliuso about your
17 background?

18 A. That I was a sex offender.

19 Q. Did you participate in any way in
20 drafting this letter?

21 A. No, I did not.

22 Q. Was it submitted to you or was it
23 sent directly to the Division?

24 A. I don't remember on that one.

25 Q. Since the time this letter was

1 written, what is your relationship with Mr.
2 Pagliuso?

3 A. Just friend which I talk to once a
4 week maybe.

5 DEPUTY PROVOST: I'd like to have
6 S-4 for Identification marked into evidence.

7 MR. NOLAN: Any objection?

8 THE WITNESS: No.

9 MR. NOLAN: I'll accept S-4.

10 Q. Mr. Scelso, I have here a letter
11 which appears to be written by James Schoonover
12 dated March 4, 2006 marked as S-5 for
13 Identification. Are you familiar with that
14 document?

15 A. Yes.

16 Q. Was this letter submitted by you
17 to the Division?

18 A. I believe that one was, yes. I
19 don't remember.

20 Q. Who is Mr. Schoonover?

21 A. He is a member of the church. He
22 was a deacon at the time I was accepted.

23 Q. Is he no longer in that position?

24 A. He's not a deacon anymore.
25 Physically he cannot handle it.

1 Q. Is he still affiliated with the
2 church?

3 A. Yes, he is.

4 Q. What is your current contact with
5 him?

6 A. Very close friend.

7 Q. Could you describe what you mean
8 by that?

9 A. I see him, I go to his house.
10 Because of his physical ailments, I visit him at
11 least once a week to talk to him just to give
12 him encouragement.

13 Q. This letter is typed or it's in
14 some sort of fashion on a computer or typewriter
15 or some sort. Do you know who actually typed
16 this letter?

17 A. If I had to make a guess, it would
18 be his wife. I don't know.

19 Q. Did you participate in any way in
20 the drafting of this letter?

21 A. No, I did not.

22 Q. This letter indicates that he has
23 known you for the past ten years, is that
24 correct?

25 A. Yes, it is.

1 Q. What of your background did Mr.
2 Schoonover know at the time he wrote this letter
3 in March 2006?

4 A. Also that I was a sex offender.

5 DEPUTY PROVOST: I'd like to have
6 this marked into evidence S-5.

7 MR. NOLAN: Any objection?

8 THE WITNESS: No.

9 MR. NOLAN: I'll accept S-5.

10 Q. So of the reference letters that
11 you have submitted that we have identified, S-2
12 through S-5, is it your testimony that each one
13 of those individuals knew of your prior criminal
14 history prior to writing that reference letter?

15 A. Yes, they have.

16 Q. I'd also like to show you what we
17 have marked as S-6 for Identification which is a
18 handwritten document which appears to be your
19 document submitted to the Division dated
20 November 21, 2005, is that correct?

21 A. Yes.

22 Q. Can you tell us what your
23 intention was in submitting this document?

24 A. To give you I guess a breakdown of
25 how what I did happened.

1 Q. If I may ask you a few questions
2 that I don't see in this explanation. At the
3 time that you committed the sexual assault or at
4 least the one that you were convicted of, what
5 year did that occur?

6 A. 1988.

7 Q. How old were you at that time?

8 A. I'm sixty-two now so forty-six.

9 Q. How old was the victim?

10 A. Ten.

11 Q. What was your relationship with
12 the victim?

13 A. She was a third cousin to me.

14 Q. Did you sometimes refer to her as
15 a niece?

16 A. No.

17 Q. So I believe that there is
18 information in the records, but I'll ask you
19 about that when we get to that point.

20 How frequently was this victim in your
21 company?

22 A. On the average of four days a week
23 at my home, not necessarily was I there.

24 Q. What was the purpose of her being
25 at your home?

1 A. My wife was watching her,
2 baby-sitting I guess you would call it, child
3 care.

4 Q. You also have children?

5 A. Yes.

6 Q. What was the age of your daughter
7 at the time that this occurred?

8 A. Twelve. Only estimates.

9 Q. There is information further on in
10 the record that there was an assault on more
11 than one occasion of the same victim?

12 A. Yes.

13 Q. I just want to clarify, it was the
14 same victim on both occasions?

15 A. Yes.

16 Q. At the time that the assaults
17 occurred, was there anyone else present?

18 A. The first time, no. Second time
19 my daughter was present.

20 Q. Can you describe a little more
21 about the second time, where your daughter was
22 at the time?

23 A. We were watching a movie on
24 television, the three of us.

25 Q. Did that second time involve

1 penetration of any sort?

2 A. Yes.

3 Q. Can you describe what your family
4 life was like at the time in 1988, approximately
5 the time period involving these offenses?

6 A. I wasn't home very much. Didn't
7 really have much of a family life as far as I
8 was concerned. I don't think I could handle
9 family life back then.

10 Q. Was there anything in particular
11 that caused you to feel that way?

12 A. Nothing in particular. I think it
13 was just basically my being raised the way I
14 was.

15 Q. What about the way that you were
16 being raised?

17 A. I was physically abused.

18 Q. How long had you been married?

19 A. At that time?

20 Q. At that time.

21 A. At that time twelve years.

22 Q. You also have a son from that
23 marriage?

24 A. Yes.

25 Q. What is the age of your son in

1 relation to your daughter?

2 A. They are a year apart.

3 Q. Younger or older?

4 A. Younger.

5 Q. Was your son at home at the time
6 of any of the incidents?

7 A. Probably, but I don't remember
8 specifically.

9 Q. There is an indication in the file
10 that you worked a third shift job. When you
11 came home, you were either under the influence
12 frequently of marijuana and/or alcohol, is that
13 correct?

14 A. Yes.

15 Q. Can you tell me what the job was?

16 A. I was a computer tech midnight to
17 8:00 shift.

18 Q. Do you currently use any
19 substances?

20 A. No, I do not.

21 Q. What made you stop using
22 substances?

23 A. What made me?

24 Q. And by that I mean alcohol and/or
25 any drugs or narcotic or illegal controlled

1 dangerous substances.

2 A. I think my arrest was the biggest
3 influence.

4 Q. What about your arrest and the
5 subsequent events after your arrest caused you
6 to stop using substances?

7 A. I believe that was it. At that
8 point when I was arrested, that is when I
9 realized my life had fallen apart. I just
10 stopped.

11 Q. Did you ever seek help for that
12 aspect of your personality, the use of
13 substances?

14 A. No.

15 Q. What did you do immediately after
16 the arrest?

17 A. Immediately?

18 Q. Were you incarcerated, were you
19 sent someplace?

20 A. I was sent to county jail and I
21 was set bail.

22 Q. Once you got out of county jail, I
23 assume that would be in a relatively short
24 period of time?

25 A. Two days.

1 Q. What did you do after that?

2 A. I signed myself into a private
3 mental hospital.

4 Q. What caused you to do that?

5 A. I was beginning to go off the deep
6 end.

7 Q. How long were you in the hospital?

8 A. Thirty days.

9 Q. What type of treatment did you
10 receive during that thirty-day period?

11 A. I can't answer that. I don't know
12 what types they offered. They knew what I was
13 in there for. I guess depression.

14 Q. Were you given counseling, were
15 you given some kind of medical narcotic, were
16 you given some other type of treatment?

17 A. I was not given any medication. I
18 was -- counseling was the big thing.

19 Q. At the end of the thirty-day
20 period, was there a result?

21 A. I felt better.

22 Q. You were there voluntarily?

23 A. Yes.

24 Q. So that you could leave at any
25 point in time?

1 A. Well, I went for the full thirty
2 days because that is what my insurance paid for.

3 Q. At the end of the thirty days,
4 could you have chosen to stay longer?

5 A. No.

6 Q. Regardless of insurance?

7 A. Yes.

8 Q. For your own health?

9 A. If it wasn't for the insurance,
10 yes, I would have stayed -- I could have stayed
11 longer.

12 Q. Did you feel any need to continue
13 receiving the type of treatment that you were
14 getting during that first thirty-day period?

15 A. Yes, during the thirty days.

16 Q. After the thirty-day period, did
17 you feel a need for further treatment of any
18 sort?

19 A. I signed up with a psychologist.

20 Q. So your answer would be yes?

21 A. Okay, sorry.

22 Q. Who was the psychologist at the
23 time?

24 A. Mr. Atkins.

25 Q. I will show you right now what has

1 been marked S-7 for Identification which appears
2 to be a letter from Mr. Atkins?

3 A. Yes.

4 Q. Addressed to the Division of
5 Consumer Affairs. This document was submitted
6 by you in connection with your application?

7 A. I think he sent it.

8 Q. It is addressed directly to the
9 Division of Consumer Affairs?

10 A. Yes, it was sent by him. I have a
11 copy.

12 Q. That would be upon your request?

13 A. Yes.

14 Q. It is dated March 6, 2006 and I
15 believe a copy of the envelope which is
16 addressed directly to the Division from
17 Mr. Atkins is attached as well.

18 DEPUTY PROVOST: I'd like to have
19 this marked into evidence.

20 MR. NOLAN: Any objection, Mr.
21 Scelso?

22 THE WITNESS: No.

23 MR. NOLAN: Counsel, is it S-7 or
24 S-6? The last one I have is a letter from
25 James --

1 DEPUTY HUGELMEYER: The letter
2 that Mr. Scelso wrote should be S-6.

3 DEPUTY PROVOST: I'd like to have
4 that marked in evidence as well.

5 MR. NOLAN: No objection to six or
6 seven?

7 THE WITNESS: No.

8 MR. NOLAN: I'll accept both.

9 Q. With respect to Mr. Atkins'
10 report, and I believe you have a copy of it in
11 front of you, he indicates that he reviewed a
12 treatment report from the Burlington County case
13 management office. Could you tell me what that
14 office was, if you know?

15 A. I have no idea.

16 Q. He indicates that there was a --
17 that you had a desire to overcome your
18 long-standing pattern of regressive reactions to
19 stress and depression. Would that accurately
20 characterize what you felt at the time that you
21 consulted with Mr. Atkins?

22 A. Yes.

23 Q. How frequent was your treatment
24 with Mr. Atkins?

25 A. Started out twice a week and then

1 as we progressed it went down to one, one time a
2 week.

3 Q. How long a period of time did that
4 occur?

5 A. From nineteen --

6 Q. Approximate.

7 A. Five years.

8 Q. Could you tell us what strategies
9 you implemented to control your impulses or
10 behavior as a result of Mr. Atkins treatment?

11 A. Well, the biggest thing that
12 helped me out realizing that it was immorally
13 wrong what I had done and that has worked for me
14 along with other things today. I had developed
15 remorse. I really began to realize that the
16 child was just not an object, that it was a real
17 human being, a real person that I had a profound
18 affect on.

19 Q. Is it true that you were diagnosed
20 at one point with having an obsessive compulsive
21 behavior pattern?

22 A. That's what they tell me.

23 Q. So that would indicate that even
24 though you were convicted of one offense, that
25 there were other times in your life when you had

1 compulsions that maybe you did or did not act
2 upon, is that true?

3 A. That's a possibility. I can't say
4 that for sure.

5 Q. You said that there were other
6 things that you have done to combat your --

7 A. Yeah, I got involved in working in
8 the community.

9 Q. In what way was that?

10 A. I was helping out with a home just
11 to -- I felt I had to give something back after
12 what I did to the community.

13 Q. Buy a home do you mean?

14 A. Senior home. I worked in a senior
15 home for about a year.

16 Q. What types of things did you do
17 there?

18 A. Anything they needed me to do.

19 Q. You mean like handyman or fixing
20 or building?

21 A. No, talking with the seniors, just
22 being friends with them.

23 Q. Companionship?

24 A. Pardon me?

25 Q. Companionship?

1 A. Yes, something I've never really
2 been able to do in my life.

3 Q. Was that part of your sentence
4 that you received?

5 A. No, that was on my own.

6 Q. Or any requirement?

7 A. That was on my own.

8 Q. Did you also have a frequent
9 depression prior to seeking treatment?

10 A. I could say yes at that time.

11 Q. At that time?

12 A. Yes.

13 Q. Were you given medication for
14 controlling the depression?

15 A. The only medication I received was
16 when I was in Avenel.

17 Q. Do you know what medication that
18 was?

19 A. Prozac.

20 Q. So when you left Avenel, and
21 correct me if I'm wrong, you were there
22 approximately three years or under three years?

23 A. One year eleven months.

24 Q. When you left Avenel, were you no
25 longer on any medication?

1 A. No, I continued on them for a
2 while.

3 Q. Under the guidance of a physician
4 at the time?

5 A. My family physician, yes.

6 Q. What made you discontinue?

7 A. Didn't feel -- it is harsh to say
8 I didn't feel I needed them anymore. I didn't
9 have -- I felt good about myself.

10 Q. So just to bring this into
11 context, about when were you released from
12 Avenel?

13 A. June of 1996. The exact date I
14 don't remember.

15 Q. That is close enough. From the
16 time that you were released in June, what did
17 you continue to do to maintain whatever tools
18 you had to combat your compulsive obsessive
19 behavior?

20 A. Yes, as a member of the church was
21 a psychiatrist that worked in Philadelphia. I
22 met with him at the church one night a week.

23 Q. After leaving --

24 A. After I left Avenel, yes, because
25 I joined the church in July.

1 Q. Why did you join the church?

2 A. Because I needed something to make
3 my life stable and I accepted the Lord while I
4 was in prison.

5 Q. At the time that you went to
6 prison, you were married, is that correct?

7 A. Yes, I was.

8 Q. Did that marriage become dissolved
9 at some point?

10 A. It did in 1998.

11 Q. So after you were released from
12 Avenel?

13 A. I'm sorry, '99.

14 Q. After you were released from
15 Avenel, did you go back to your wife and live a
16 family life?

17 A. No.

18 Q. What did you do after that?

19 A. I maintained my family life with
20 my children, my mom.

21 Q. How was that, did you see your
22 children on a regular basis?

23 A. Yes, still do.

24 Q. Did you participate in school
25 activities? I don't know if they were still in

1 school at the time.

2 A. I think my son was still in high
3 school.

4 Q. Do you know if there were any
5 restrictions placed upon your visitation with
6 children?

7 A. No.

8 Q. Have there at any time been any
9 restrictions placed upon your contact with
10 children?

11 A. No.

12 Q. How did you end your relationship
13 with Dr. Atkins, why did it end?

14 A. Because I was -- when I started
15 with the psychiatrist at the church, I ended
16 with Atkins.

17 Q. Who was the psychiatrist at the
18 church?

19 A. I knew you were going to ask me
20 that name. I haven't seen him now in three
21 years so I just don't remember his name. I'm
22 sorry about that because I'm having a problem
23 with memory.

24 Q. First or last name, can you do
25 either one?

1 A. His first name was Gary, but his
2 last name I cannot place off the top of my head.

3 Q. In the event that it would be
4 informative for the Director, would you be able
5 to obtain that?

6 A. Yes, I could get it from my church
7 secretary.

8 Q. You also submitted or had cause to
9 be submitted a report from a Dr. Timothy Foley
10 in connection with your application here. I'd
11 like to show you what's been marked S-8 for
12 Identification.

13 A. Yes.

14 Q. You are familiar with this
15 document?

16 A. Yes.

17 Q. Did you also get a copy at the
18 time?

19 A. Yes.

20 DEPUTY PROVOST: So I'd like to
21 have S-8 entered into evidence and I have a few
22 questions to ask about that.

23 MR. NOLAN: Do you have any
24 objection?

25 THE WITNESS: No objection.

1 MR. NOLAN: I will accept S-8.

2 Q. Mr. Scelso, this report indicates
3 that you had frequent alcohol and marijuana use
4 and I know we touched upon it earlier, but can
5 you describe the frequency?

6 A. Three times a week in the morning.

7 Q. From how long a period of time
8 before the occurrence of the arrest which led to
9 your arrest?

10 A. The arrest was a year later. The
11 occurrence happened -- I guess about six months
12 before the occurrence.

13 Q. So for a period of six months or
14 more you were regularly involved with
15 substances?

16 A. Right.

17 Q. Was there something that caused
18 your --

19 A. Lousy job.

20 Q. -- turning to that as an outlet?

21 A. It was just I would come home and
22 I was just, so to speak, unwind, take the edge
23 off, go to sleep because I worked all night.
24 Sometimes worked overtime so I had to get to
25 sleep.

1 Q. I believe that there is an
2 indication here that you first were introduced
3 to marijuana or some sort of controlled
4 substance when you were in your teens?

5 A. High school.

6 Q. From the time that you were in
7 your teens to the time that you were forty-six
8 years old or before that, what was your pattern
9 with respect to --

10 A. Marijuana, we'd party on weekends
11 before I got married, drink and smoke.

12 Q. When was it you got married for
13 the first time?

14 A. First time I got married. I've
15 only been married once.

16 Q. I'm sorry, I thought there was
17 another relationship that was a marriage?

18 A. No.

19 Q. When did you get married, how old
20 were you at the time?

21 A. I was twenty-six years old.

22 Q. Once you got married then for the
23 most part you were not involved in that
24 lifestyle anymore?

25 A. No, I changed my lifestyle.

1 Q. There's a statement in this report
2 that indicates that you recognize that or that
3 you had at one point asked a customer -- I'm
4 sorry. You asked a customer's daughter to leave
5 the area because you found her presence
6 distracting?

7 A. No, I approached the home and the
8 parents were not home so I left.

9 Q. About when?

10 A. That happened once.

11 Q. About when was that?

12 A. That was about three years ago.

13 Q. Did you actually find the person
14 to be distracting, the young person who was
15 there to be distracting?

16 A. No.

17 Q. Can you describe --

18 A. It was a policy that I have.

19 Q. Can you tell us what that policy
20 is?

21 A. The policy is I do not work in a
22 home with children without adults.

23 Q. Does that stem from just the fact
24 that you have a background or does that stem
25 from any particular feelings that you have?

1 A. Common sense.

2 Q. The report also indicates that --
3 actually, the doctor said that one of the things
4 you said is something like that attraction just
5 doesn't disappear in talking about your
6 attraction to children. Is that accurate from a
7 statement from you?

8 A. Yes, it is accurate. It is
9 controllable, but it is always there vaguely.

10 Q. Can you foresee anything that
11 would cause you to lose control?

12 A. No, not at this point.

13 Q. Can you describe why you believe
14 that you are in that position?

15 A. Which position is that?

16 Q. Of being able to control your
17 feelings?

18 A. Because I know it's wrong.

19 Q. What do you do as a result of
20 knowing that it's wrong?

21 A. I pray, I look for -- I work with
22 other outlets.

23 Q. Such as?

24 A. Hobbies.

25 Q. What are your hobbies?

1 A. Cars.

2 Q. What do you do?

3 A. I like mechanic, done that all my
4 life and computers which takes up most of my
5 spare time.

6 Q. Dr. Foley reports that you stated
7 that you last used alcohol approximately four
8 years ago at a holiday party?

9 A. Yes, not to the extent where I got
10 drunk, but I did partake in a glass of wine. It
11 was a wedding actually.

12 Q. Did that cause you to have any
13 feelings of losing control?

14 A. No, little guilty, but that was
15 it.

16 Q. Are you on any medication today?

17 A. Only for my ailments.

18 Q. You mean physical ailments?

19 A. Yes.

20 Q. So no mental disability that you
21 have?

22 A. No.

23 Q. Can you describe what your family
24 relationship is today and with whom you live?

25 A. I'm good friends with my ex-wife.

1 We talk once, twice a week. I see my grandkids
2 all the time.

3 Q. How many do you have?

4 A. Three.

5 Q. How old are they?

6 A. Eight, eleven and seventeen.

7 Q. Do they live near you?

8 A. Yes.

9 Q. So when you say all the time --

10 A. Four times a week.

11 Q. In what context?

12 A. Go over there to eat. Go over
13 there, take them to a game. I'll go see them at
14 the games. They are heavily into sports.

15 Q. Are you ever in individual company
16 of any of your grandchildren without adults
17 present one at a time?

18 A. I can't answer that because I've
19 never given that any thought.

20 Q. Can you describe, just to go back
21 a little bit, what the aftercare and medication
22 treatment strategies were for you after leaving
23 Avenel?

24 A. Strategy?

25 Q. Yeah, that is what Dr. Foley's

1 report says. The combination of aftercare and
2 medication treatment strategies indicates a
3 positive --

4 A. The medication there was when we
5 thought -- my family doctor felt that I didn't
6 need it anymore, we did away with the
7 medication.

8 Q. That was the Prozac that you
9 referred to?

10 A. Yeah.

11 Q. What about other aftercare
12 strategies?

13 A. Talking about it, keeping in my
14 mind, the guilt. I can never lose the guilt.

15 Q. Is this person who was related to
16 you, do you ever see that person?

17 A. I met that person I guess about
18 two years ago.

19 Q. I'm not sure, is it a girl or boy?

20 A. Girl.

21 Q. About two years ago?

22 A. We talked and at that point in
23 time it really brought tremendous compassion to
24 me to see what went through her life because of
25 me.

1 Q. Are you saying that you talked
2 about the specific instances?

3 A. Yes, we did.

4 Q. Did she approach you?

5 A. We met in a store.

6 Q. By chance?

7 A. By chance, all by chance and we
8 just got talking and I asked her how she was
9 doing. I was really concerned and she started
10 telling me life was hard. She had a hard time
11 trusting people and which I had learned in my
12 therapy that that happens and we talked about --
13 I said I was sorry to her, I apologized and she
14 didn't accept my apology, but that is okay.

15 Q. Did she agree to talk to you more
16 or did she give any indication that she wanted
17 to speak more about it?

18 A. No, and we just left it at that.
19 I mean we left, we weren't in a battle. We just
20 expressed our concerns and we left and that was
21 that.

22 Q. When you say she didn't accept
23 your apology, verbally she specifically said I
24 cannot accept that?

25 A. Yeah, more or -- yeah, that's the

1 way I took it. I apologized in earnest and she
2 says it's too late. That was her words, it is
3 too late. I said okay, that's fine.

4 Q. Do you have any plans to try to
5 rectify that situation? It doesn't seem like it
6 was a close relative, but still a relation of
7 yours?

8 A. There is no closure there and
9 there probably never will be unless something
10 happens in the future. I don't know.

11 Q. Just briefly, can you tell us what
12 your business is today?

13 A. It's a business in heating and air
14 conditioning.

15 Q. Installing and repairing?

16 A. Eighty-five percent of my work is
17 service and repair.

18 Q. What is the reason that you are
19 interested in having a --

20 A. License.

21 Q. -- registration for home
22 improvement?

23 A. I had the opportunity -- well, I
24 have been doing work for the South Jersey Gas as
25 an installer, conversions and up until the need

1 of a license I was able to pull permits for the
2 customers.

3 Q. For South Jersey Gas, it's a
4 separate business?

5 A. No, I'm a contractor for them.

6 Q. You mean they contract out the
7 work to your business?

8 A. Yes.

9 Q. Do you have employees who work for
10 you?

11 A. No. Part-time, but not full-time.
12 I have a fellow that works with me one, two days
13 a week.

14 Q. Regularly or occasionally?

15 A. When needed. Service and repair,
16 I don't need any help. That's a one man
17 operation, but when I have installations, I use
18 him on occasion.

19 Q. Are you familiar with the
20 requirements of the regulations under the Home
21 Improvement Contractors Act?

22 A. Yeah, basically I read them last
23 year. Hard to remember them.

24 Q. If you're registered, the use of
25 your advertising and what you need to put in

1 advertising and displaying your registration
2 number and things like that?

3 A. Okay, I didn't realize that.

4 Q. If you were to be registered, you
5 would agree to follow all of the regulations?

6 A. Yes, I would.

7 Q. Do you have a current commercial
8 liability insurance policy of at least five
9 hundred thousand dollars?

10 A. Yes, I have a five million dollar.
11 That's required by the gas company.

12 Q. Do you know the effective date of
13 that?

14 A. November 20. The same date as
15 what you have on your copy.

16 Q. Except the following year?

17 A. Every year it gets renewed.

18 Q. You have an updated policy and you
19 would be able to provide that?

20 A. Yes, I do. I believe it is
21 November 28.

22 Q. I don't have it in front of me.

23 DEPUTY PROVOST: I have no further
24 questions at this time.

25 MR. NOLAN: Mr. Scelso, I do have

1 some questions. Do you have employees as part
2 of your business?

3 THE WITNESS: I do not have
4 full-time employees. I have a couple fellows
5 that work with me part-time as I need them.

6 MR. NOLAN: So is it fair to say
7 the regular course of your business is you
8 providing the service without any sort of
9 assistant or anything like that?

10 THE WITNESS: Yes.

11 MR. NOLAN: I need to ask you
12 about the incident that you were convicted of in
13 some more detail about that. What was the
14 conduct that happened that led to the
15 conviction?

16 THE WITNESS: The first time I was
17 in bed trying to get to sleep. I think I was
18 asleep because when I woke up, she was alongside
19 of me.

20 MR. NOLAN: She being?

21 THE WITNESS: The victim.

22 MR. NOLAN: She was ten years old?

23 THE WITNESS: Her and my daughter
24 decided to lay down and come lay on the bed.

25 MR. NOLAN: In the bedroom?

1 THE WITNESS: In the bedroom.
2 Then I woke up. I have no idea in my mind
3 because under the influence -- I can't blame the
4 influence. I just started fondling her. I
5 don't know whether I thought it was my wife or
6 what.

7 MR. NOLAN: Was she clothed?

8 THE WITNESS: Yes.

9 MR. NOLAN: Was it through her
10 clothing or under her clothing?

11 THE WITNESS: The first time it
12 was through her clothing. Second time was
13 under.

14 MR. NOLAN: You say second time?

15 THE WITNESS: This happened twice.

16 MR. NOLAN: A completely separate
17 incident?

18 THE WITNESS: Yeah, she laid on my
19 lap when we were watching television.

20 MR. NOLAN: This was underneath
21 her clothing?

22 THE WITNESS: Yeah.

23 MR. NOLAN: Was the second time
24 the time that involved actual penetration?

25 THE WITNESS: The second time did,

1 yes.

2 MR. NOLAN: Aside from those two
3 instances, did it happen any other times with
4 this individual?

5 THE WITNESS: No, because after
6 the second incident, she was not allowed to come
7 and stay with us at the house.

8 MR. NOLAN: How did that -- after
9 the second incident, that came to light?

10 THE WITNESS: That is when I
11 realized what I had done and came to my senses.

12 MR. NOLAN: You were the one who
13 said something?

14 THE WITNESS: Actually, I hadn't
15 seen her until the time I was arrested.

16 MR. NOLAN: How long was that?

17 THE WITNESS: That was a year. I
18 didn't want to have anything to do with her. I
19 guess I was just shotgunning the situation.

20 MR. NOLAN: What you are
21 testifying to is that you made the decision that
22 you would not have any further contact with her?

23 THE WITNESS: Yes.

24 MR. NOLAN: Did you explain to
25 your wife why it was that this girl that she was

1 watching would no longer come to your house?

2 THE WITNESS: I just said it was
3 not a good idea, that things were happening that
4 I did not want to be involved in. I think I
5 left it at that. I didn't get specific with my
6 wife.

7 MR. NOLAN: Did your wife question
8 you as to what you were talking about?

9 THE WITNESS: Yes.

10 MR. NOLAN: What did you tell her?

11 THE WITNESS: That she was not to
12 be here anymore.

13 MR. NOLAN: In terms of her
14 questioning --

15 THE WITNESS: I didn't tell her
16 that I had fondled her.

17 MR. NOLAN: You did not tell her
18 that?

19 THE WITNESS: No.

20 MR. NOLAN: She didn't press you
21 in what are the things going on that gave you
22 concerns?

23 THE WITNESS: She would
24 continually ask me and I would brush the issue
25 aside.

1 MR. NOLAN: You say that it was
2 about a year later that you came to be arrested?

3 THE WITNESS: Yes.

4 MR. NOLAN: How did that come to
5 be?

6 THE WITNESS: She told her mom.

7 MR. NOLAN: The victim hold her
8 mom?

9 THE WITNESS: And her mom called
10 the police.

11 MR. NOLAN: You said earlier in
12 your testimony that through the course of
13 treatment you would come to understand that the
14 conduct that you engaged in was morally wrong?

15 THE WITNESS: Yes, it is.

16 MR. NOLAN: That is fair that it
17 was through the course of treatment that you
18 came to that understanding?

19 THE WITNESS: Yes, because before
20 I came to the Lord, I had an idea that it was an
21 immoral issue. When I came to the Lord, that
22 clinched it. That was the sealing portion.

23 MR. NOLAN: Where I want to go
24 which is at the time you were engaging in this
25 conduct with this ten-year old girl, did you

1 have an understanding at that point that it was
2 wrong what you were doing?

3 THE WITNESS: I think I did, but I
4 just ignored it. Gratification comes in various
5 ways I would assume. That became more important
6 than what I was doing wrong, but then after I
7 realized what I had did -- hard to explain.
8 Like my head blew up and I became -- I'm trying
9 to find the words to explain it. Guilty. I
10 became very guilty at that point after it
11 happened.

12 MR. NOLAN: So if I understand --

13 THE WITNESS: I think the guilt
14 drove me to a lot of things.

15 MR. NOLAN: If I understand what
16 you are saying, it is not really a question of
17 you not understanding that it was wrong at the
18 time, it was a question of you deciding to
19 control yourself or not?

20 THE WITNESS: Right.

21 MR. NOLAN: I'm reading Dr.
22 Foley's report and he is recounting that you
23 said you told him that you had engaged in some
24 sort of conduct, sexual conduct, with about ten
25 other preadolescent girls aside from this

1 instance?

2 THE WITNESS: Not realizing at the
3 time when you play with children, you tickle
4 them and you do things for gratification, not
5 realizing what I was really doing. I didn't
6 understand it way before that. Even out of my
7 teens even before I got married.

8 MR. NOLAN: Let me understand.
9 First, is that accurate that there were ten
10 other individuals, preadolescent girls, that you
11 had engaged in some sort of conduct with?

12 THE WITNESS: Contact.

13 MR. NOLAN: Did any of those -- is
14 that a correct number, is it ten?

15 THE WITNESS: I have no idea.
16 This was many years before.

17 MR. NOLAN: Is that what you told
18 Dr. Foley though?

19 THE WITNESS: Yes.

20 MR. NOLAN: That number, those
21 ten, were any of them the kind of conduct that
22 involved the girl that you received the
23 conviction for?

24 THE WITNESS: No.

25 MR. NOLAN: Any of them involve

1 fondling or touching?

2 THE WITNESS: Touching but in a
3 gainful way, in a playing way.

4 MR. NOLAN: Touching where, Mr.
5 Scelso?

6 THE WITNESS: In their privates,
7 tickling.

8 MR. NOLAN: Which part of their
9 privates?

10 THE WITNESS: The front.

11 MR. NOLAN: The chest area?

12 THE WITNESS: Chest area, down in
13 their private parts. Just messing around
14 playing, just touching.

15 MR. NOLAN: During what time
16 period are we talking about here?

17 THE WITNESS: I'd say from the
18 time I was out of high school until the time --

19 MR. NOLAN: To the time of the
20 arrest?

21 THE WITNESS: No, I'd say probably
22 a few years before the incident occurred.

23 MR. NOLAN: When you would engage
24 in those situations, did you realize at the time
25 that that was wrong?

1 THE WITNESS: No, I did not give
2 it any thought because if I had, then I would
3 have stopped.

4 MR. NOLAN: Now, Dr. Foley reports
5 that in 1983 your wife confronted you about your
6 attraction to preadolescent girls. Tell me
7 about that.

8 THE WITNESS: She caught me
9 playing around with one of the children and she
10 asked me about it. We were wrestling, tickling,
11 playing and she recognized what I was doing and
12 she asked me about it and I put it off.

13 MR. NOLAN: How old was this girl?

14 THE WITNESS: I have no
15 recollection at this point in time.

16 MR. NOLAN: Was she under ten?

17 THE WITNESS: I don't know. It's
18 been a long time.

19 MR. NOLAN: But you say you were
20 wrestling with her and your wife recognized that
21 it was inappropriate?

22 THE WITNESS: I can say we can
23 speculate she was under ten or we wouldn't be
24 wrestling on the floor.

25 MR. NOLAN: I am not asking you to

1 speculate.

2 THE WITNESS: I can't give you an
3 exact answer.

4 MR. NOLAN: Your wife confronted
5 you about this?

6 THE WITNESS: Yeah, she recognized
7 some incident that I was doing and she
8 questioned me on it.

9 MR. NOLAN: What did she say?

10 THE WITNESS: She asked me if I
11 knew what I was doing and I denied it.

12 MR. NOLAN: When you say she asked
13 you if you knew what you were doing, was she
14 more specific than that?

15 THE WITNESS: I knew what she was
16 driving at, but I just denied it.

17 MR. NOLAN: But that was as
18 specific as she got, do you know what you are
19 doing?

20 THE WITNESS: Yeah.

21 MR. NOLAN: You just sort of
22 pushed it off?

23 THE WITNESS: I pushed it off,
24 made her feel like she was looking for things
25 that shouldn't have been there.

1 MR. NOLAN: But you recognized at
2 the time what she was talking about, this was
3 really inappropriate conduct?

4 THE WITNESS: Yes.

5 MR. NOLAN: The conduct happened
6 after that in 1983?

7 THE WITNESS: Yes.

8 MR. NOLAN: As I understand the
9 diagnosis you have is that pedophilia, that you
10 have an attraction to children?

11 THE WITNESS: Yes.

12 MR. NOLAN: A sexual attraction,
13 correct?

14 THE WITNESS: Yes, correct.

15 MR. NOLAN: Can you tell me what
16 it is, do you continue to have an impulse and
17 attraction towards girls that are prepubescent,
18 is that an impulse you continue to feel?

19 THE WITNESS: At this point in
20 time I may just look at them, you know, wow,
21 nice and that's it, but that's as far as I go in
22 my own mind.

23 MR. NOLAN: So you still have that
24 impulse?

25 THE WITNESS: I think they are

1 attractive to me.

2 MR. NOLAN: It is just a question
3 of you controlling that impulse?

4 THE WITNESS: Oh, yes.

5 MR. NOLAN: Are there situations
6 that make it more difficult for you to control
7 the impulse where you feel more tested?

8 THE WITNESS: If it gets to that
9 point, I walk away. I do not allow it to get
10 anymore intensive.

11 MR. NOLAN: What are the factors
12 that seem to drive up the intensity of that
13 impulse where you say to yourself, geez, I
14 better get myself out of this situation?

15 THE WITNESS: Right, I guess the
16 clothes they wear, the conduct, that all comes
17 together.

18 MR. NOLAN: If you find yourself
19 alone in the company of a girl that is
20 prepubescent, does that make it more difficult?

21 THE WITNESS: If that happened,
22 yes, but I don't allow that to happen.

23 MR. NOLAN: You don't allow that
24 to happen?

25 THE WITNESS: Exactly.

1 MR. NOLAN: That is something --

2 THE WITNESS: It could happen,
3 yes, I can't deny that it could never, ever in a
4 thousand years happen.

5 MR. NOLAN: In the context of when
6 you do work in the contracting field, what are
7 strategies for making sure that you don't find
8 yourself in those situations? I would imagine
9 your residential customers, many of them have
10 young children and I've got to imagine, Mr.
11 Scelso, that you find yourself in a situation
12 where your customer has a daughter or child in
13 the house or girl who is under fifteen?

14 THE WITNESS: Sure.

15 MR. NOLAN: What do you do?

16 THE WITNESS: Those situations are
17 viable situations. I go in, I do the work I
18 have to do. I concentrate on what has to be
19 done and then if the parent's home that I have
20 to collect a check and make out an invoice and I
21 sit down and talk with them and then I leave.

22 MR. NOLAN: Do you do anything
23 different in terms if the house you're working
24 in there is a girl who is preadolescent in the
25 house, do you do anything different in terms of

1 the way you would --

2 THE WITNESS: Concentrate on my
3 task at the time. That's what I found to work
4 the best.

5 MR. NOLAN: So if you find
6 yourself in a house and there is a preadolescent
7 girl there, you will continue to work in the
8 house, but you just focus on your work?

9 THE WITNESS: I focus on my work,
10 get it done and get out.

11 MR. NOLAN: Have you had
12 situations where you are doing this kind of work
13 and a girl in the house will talk to you or chat
14 with you, that sort of thing?

15 THE WITNESS: From a distance.
16 They don't come close. I don't allow them to
17 come close. I tell them for insurance purposes
18 not to come near the work that I'm doing and if
19 they talk to me from the other room, that is
20 fine, I can talk and work.

21 MR. NOLAN: So you will engage in
22 conversation with them, but you keep your
23 distance?

24 THE WITNESS: Yeah.

25 MR. NOLAN: How about if you're in

1 a house and a situation that the parent or the
2 adult is not there, the adult goes out to get
3 something, that sort of thing. What do you do?

4 THE WITNESS: Ms. Provost and I
5 spoke about that whereas I did go to do a job, I
6 knocked on the door and the child came to the
7 door and I said is your parent's home and she
8 said no, she just went to the store. I said
9 fine, I'll come back later on when your mom --
10 it was her mom because it was during the
11 summer -- that her mom was home.

12 MR. NOLAN: That was one time when
13 that happened?

14 THE WITNESS: One time.

15 MR. NOLAN: Are there other times
16 that that's happened?

17 THE WITNESS: Usually I make the
18 arrangements on the phone before I go and that
19 is paramount to make sure an adult is there. I
20 don't have no idea if there is children.

21 MR. NOLAN: Is that something you
22 say to all of your customers when you make the
23 appointment, that I need to have an adult in the
24 house at the time?

25 THE WITNESS: Yes, unless they

1 leave me a key and nobody's home, then that's
2 also acceptable.

3 MR. NOLAN: So that is a situation
4 at times where they will leave you a key, you
5 will go to work there and as long as there is no
6 children there, you are in good shape, but if
7 there is a child there like that situation, you
8 leave?

9 THE WITNESS: I do not enter the
10 home. It is a policy. I have to adhere to a
11 strict policy.

12 MR. NOLAN: I'm trying to get a
13 sense when you call the customer and say I am
14 going to come out to do work, you say to them is
15 there going to be an adult in the home?

16 THE WITNESS: I first ask will
17 anybody be home and if they say to me, oh, my
18 daughter or my son will be home, well, then I
19 always ask how old is your son or daughter.
20 Well, if they are over eighteen, fine, they are
21 an adult, but if they are not, then I cannot
22 come out unless there is an adult there. I tell
23 them that over the phone right from the get go.

24 MR. NOLAN: As I understand it,
25 the attraction that you have and the attraction

1 that you struggle with is one towards girls, not
2 boys?

3 THE WITNESS: Yes.

4 MR. NOLAN: But your rule is
5 basically if there is a kid in the house I'm not
6 going?

7 THE WITNESS: Any child.

8 MR. NOLAN: If you were presented,
9 Mr. Scelso, with a situation where you were
10 doing work in the home and there was a young
11 girl in the house and the parents said I am
12 going out to get milk or something like that,
13 what would you do?

14 THE WITNESS: I would go out to my
15 truck and wait. I have come close to that on
16 occasion.

17 MR. NOLAN: When you say you've
18 come close, what do you mean by that?

19 THE WITNESS: They are saying how
20 about if I go to the store while you are doing
21 this. I'll say, no, please stay until I'm
22 finished. Got to use common sense. You can't
23 allow things to get out of hand. Even with an
24 ordinary person without my background, they
25 could get into a situation like that and things

1 could happen, accusations.

2 MR. NOLAN: Mr. Scelso, have you
3 ever been in the situation where you've told the
4 customer, look, the reason why I need you to be
5 there is because I have this issue?

6 THE WITNESS: No, that is not
7 something I would tell a customer. I just make
8 sure black and white that an adult is there.

9 MR. NOLAN: But the rule is --

10 THE WITNESS: They don't have to
11 know why, they just got to know for legal
12 purposes an adult has to be present or no one.
13 One or the other.

14 MR. NOLAN: If I am understanding
15 correctly, is the concern that if you were to
16 say to them here's the situation, they would
17 say, well, we are going to find somebody else or
18 something like that?

19 THE WITNESS: That is not a need
20 to know for a customer.

21 MR. NOLAN: So you don't think
22 that information is necessary so long as you
23 adhere to that rule?

24 THE WITNESS: Exactly.

25 MR. NOLAN: Is that something you

1 think a customer might want to know if they had
2 a ten-year old girl in the house?

3 THE WITNESS: I don't know because
4 I am not presenting them with a situation that
5 they need to know that. I'm there to do a job
6 and I'm there to get paid and leave. I'm not
7 there to make friends.

8 MR. NOLAN: If I gave you a scale
9 of one to ten in terms of the potential for
10 something like this to happen again and when I
11 say something like this, I mean your touching a
12 preadolescent girl in a way that is
13 inappropriate, can you give me a sense?

14 THE WITNESS: I would give you a
15 one because at this point in time I average a
16 hundred homes a year that I go in and service.
17 I went back and looked, on average a hundred
18 homes a year. So I've got it to a point where
19 it is safe, it is accurate and I don't feel that
20 I'm putting customers or myself in jeopardy with
21 these rules.

22 MR. NOLAN: Would you be
23 comfortable testifying under oath that in the
24 last five years you have not been alone in a
25 customer's house with a child?

1 THE WITNESS: Yes, I would.

2 MR. NOLAN: That has not happened
3 one single time?

4 THE WITNESS: Has not happened one
5 single time.

6 MR. NOLAN: I read about in one of
7 the recommendation letters that you submitted
8 about this program at the Fellowship Baptist
9 Church, Awana program?

10 THE WITNESS: Yes.

11 MR. NOLAN: What is that program?

12 THE WITNESS: That's a program
13 where we teach children bible.

14 MR. NOLAN: Like bible study, that
15 sort of thing?

16 THE WITNESS: And even there the
17 church policy is that no adult stays with a
18 child by themselves.

19 MR. NOLAN: You are involved as
20 teaching?

21 THE WITNESS: As a teacher,
22 mentor.

23 MR. NOLAN: What are the ages?

24 THE WITNESS: Six to twelve, but I
25 do the boys.

1 MR. NOLAN: So you never talk to
2 girls?

3 THE WITNESS: No, I don't choose
4 to work with the girls. That is my choosing.

5 MR. NOLAN: Is that choice
6 relating to strategy in terms of I am not going
7 to put myself --

8 THE WITNESS: Yes, stay out of a
9 situation, I can't get involved.

10 MR. NOLAN: Mr. Scelso, I'm trying
11 to get a sense of -- it sounds like there were
12 alcohol and drug abuse issues at one point in
13 your life and that those, as I understand your
14 testimony, that is pretty much done?

15 THE WITNESS: That is another
16 wrong thing that I did.

17 MR. NOLAN: So that is a thing of
18 the past?

19 THE WITNESS: Thing of the past.
20 I have no desire to do it again.

21 MR. NOLAN: I understood when you
22 testified that you said it is not an excuse?

23 THE WITNESS: No, it's not.

24 MR. NOLAN: That you were impaired
25 when you engaged in this conduct for which you

1 were convicted?

2 THE WITNESS: Exactly.

3 MR. NOLAN: On the other occasions
4 where you would touch young girls, were you
5 impaired during all of those times or did it
6 just happen to be that you were impaired that
7 time?

8 What I am really getting at, can
9 you draw some kind of connection between the
10 two?

11 THE WITNESS: When I would play
12 with other kids, wrestle and tickle them and
13 touch them inappropriately, that was never with
14 alcohol, but the alcohol issue where the first
15 offense, I can't say that that's the reason.
16 It's not the reason.

17 MR. NOLAN: Do you think it
18 contributed to it?

19 THE WITNESS: It may have
20 contributed, but it is not the whole reason.
21 The whole reason is here, not the substance.

22 DEPUTY HUGELMEYER: Witness
23 indicating here tapping his forehead.

24 THE WITNESS: Should have said
25 touch wood.

1 MR. NOLAN: Since your arrest in
2 1988 --

3 THE WITNESS: '89.

4 MR. NOLAN: Since that time until
5 the present, have you at any time touched a girl
6 under the age of eighteen in any context?

7 THE WITNESS: No, not even over
8 eighteen.

9 MR. NOLAN: At all?

10 THE WITNESS: At all.

11 MR. NOLAN: You haven't touched a
12 woman since 1989?

13 THE WITNESS: I haven't touch a
14 woman since 1987.

15 MR. NOLAN: In any context? Your
16 wife?

17 THE WITNESS: I'm not married so
18 it is not appropriate.

19 MR. NOLAN: When were you married
20 until?

21 THE WITNESS: We were separated.

22 MR. NOLAN: When did you separate
23 from your wife?

24 THE WITNESS: We separated in '89.

25 MR. NOLAN: After the arrest?

1 THE WITNESS: Yeah.

2 MR. NOLAN: You are saying that
3 since '87 you haven't touched your wife in any
4 way?

5 THE WITNESS: We didn't get along
6 even at that point.

7 MR. NOLAN: Didn't hold her hands?

8 THE WITNESS: Yeah. Were you
9 talking just physical touching or abusive
10 touching, inappropriate?

11 MR. NOLAN: For starters I am
12 asking touching at all.

13 THE WITNESS: Oh, yeah, we hugged,
14 we held hands, we kissed, but I didn't have any
15 sex.

16 MR. NOLAN: You weren't sexually
17 active?

18 THE WITNESS: Correct, that is
19 what I thought you were talking about.

20 MR. NOLAN: Aside from your wife
21 since 1989 to your arrest, have you had any sort
22 of sexual relationship with any woman?

23 THE WITNESS: No.

24 MR. NOLAN: At all?

25 THE WITNESS: No, don't need it.

1 MR. NOLAN: You haven't touched
2 any girl since that time?

3 THE WITNESS: No, I mean other
4 than holding hands or hugging, but that's it.

5 MR. NOLAN: What was the context?

6 THE WITNESS: I'll kiss my
7 grandkids, but that's not inappropriate. I
8 don't think it is.

9 MR. NOLAN: Aside from kissing
10 your grandkids as a grandfather would?

11 THE WITNESS: And kissing them as
12 a lover is a big difference.

13 MR. NOLAN: How about other
14 children aside from them, have you touched them
15 in any --

16 THE WITNESS: Hugging, that's all.
17 Just normal friend, relative hug and that's it.

18 MR. NOLAN: All right.

19 THE WITNESS: I'm celibate at this
20 point I consider it. It's not a choosing, it
21 just happens to be working out that way.

22 MR. NOLAN: That is all I have.
23 Thank you for coming in. I'm not going to issue
24 a ruling today, but I'm going to need some time
25 to look at the transcript and all the materials,

1 but I do appreciate you coming in and talking
2 with us.

3 THE WITNESS: I knew you would
4 have questions.

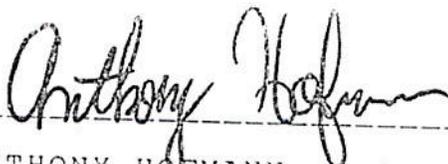
5 MR. NOLAN: Okay, thank you.

6 THE WITNESS: You're welcome.

7
8 (Whereupon, the proceedings were
9 concluded at 11:15 a.m.)
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C E R T I F I C A T E

I, ANTHONY HOFMANN, a Certified Shorthand Reporter, and Notary Public within and for the State of New Jersey, certify that the foregoing is a true and accurate transcript of the stenographic notes of said witness(es) who were first duly sworn by me, on the date and place hereinbefore set forth.



ANTHONY HOFMANN, C.S.R.

LICENSE NO. XIO1854

EXHIBIT E

STUART RABNER
ATTORNEY GENERAL OF NEW JERSEY
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101

FILED

DEC 22 2006

Division of Consumer Affairs

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
REGULATED BUSINESS SECTION

IN THE MATTER OF	:	
	:	Administrative Action
MAHD SYSTEMS, LLC	:	
	:	
Applicant	:	
	:	
FOR REGISTRATION FOR	:	FINAL ORDER OF
HOME IMPROVEMENT CONTRACTOR	:	DENIAL OF REGISTRATION
	:	Docket # : 06-085
	:	
	:	

This matter was opened to the New Jersey Division of Consumer Affairs (the "Division") upon submission of an application for a Home Improvement Contractor's Registration by Mahd Systems, LLC ("Respondent"). The application, subsequent documentation, and testimony of Harvey Scelso ("Scelso") have been reviewed and the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Respondent applied for registration under the Contractor's Registration Act, N.J.S.A. 56:8-136 et seq. ("Registration Act").
2. On its application for registration, Respondent indicated that Scelso, the owner of this limited liability company, had been convicted of a crime, was sentenced to three years in the Adult Diagnostic and Treatment Center at Avenel, and served twenty-three months there. The Judgment of Conviction which Respondent attached to the application indicated that Scelso was convicted of

2nd degree Aggravated Sexual Assault and was sentenced as a 3rd degree offender on March 18, 1994. An interoffice communication from the classification officer at the Adult Diagnostic and Treatment Center to Scelso, dated July 19, 1994, indicated that his sentence began on July 18, 1994, and that his maximum sentence would run until November 6, 1996, including all credits earned or lost, and that the date will continue to be reduced as additional work or minimum credits are earned. The Final Discharge from the Adult Diagnostic and Treatment Center, Avenel, New Jersey, which Respondent also attached to the application, revealed that Scelso was discharged on June 24, 1996.

3. Respondent provided a letter of recommendation for Scelso from Terry R. Smith, Assistant to the Pastor of Hardingville Bible Church, dated September 8, 2005. Pastor Smith's letter explains that he served as Scelso's pastor for seven years from 1996 to 2003, and that Scelso "was regular in attendance, faithful in several ministries and generous in time and labor with several maintenance projects ... [that he] made the church leadership aware of his past ... and was responsive to [their] recommendations and guidelines for him."

4. In addition, Respondent provided a letter from Scelso, dated November 21, 2005, explaining the circumstances of his criminal conviction, in which he described having molested the ten year old daughter of a relative in the presence of his own daughter while watching television.

5. On December 13, 2005, the Director issued a Provisional Order denying Respondent's application for registration as a Home Improvement Contractor in New Jersey based upon a lack of sufficient documentation to demonstrate Scelso's rehabilitation. A copy was served on Respondent. The Provisional Order was subject to finalization by the Division at 5:00 p.m. on the 30th 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 and the reasons therefor.

6. On March 14, 2006, the Division received a letter dated March 6, 2006, from Elliot L. Atkins, Ed.D., a clinician who was responding to the Provisional Order of Denial at Scelso's request. Dr. Atkins had provided individual psychotherapy to Scelso from February 1991 to July 1994. Dr. Atkins expressed his opinion that Scelso "has provided substantial evidence of his rehabilitation and has affirmatively demonstrated such rehabilitation."

7. On May 11, 2006, Veronica Hursthouse, Assistant Director, Office of Consumer Protection, sent a letter to Scelso to advise him that the Division was requesting that he submit to a current psychological evaluation, and provide a current psychological report; as the letter from Dr. Atkins, "is based upon a review of your past evaluation/treatment program and recent interviews [] conducted with you and your family." Subsequently, Scelso returned a copy of this letter, indicating by his signature his agreement to obtaining and providing a current psychological evaluation.

8. On July 25, 2006, the Division received a report from Timothy P. Foley, Ph.D., dated July 21, 2006, which related therein that Scelso: "admitted a long history of pedophilic interests and behaviors beginning in adolescence," and that he had "estimated that he touched 10 young females typically in the course of play." Notwithstanding the fact that Scelso: "admitted [to Dr. Foley] continued sexual attraction to prepubescent females," Dr. Foley assessed his risk of recidivism at a mere 6% over five years, 7% over ten years, and 7% over 15 years in the community, and concluded that he, "is at low risk to sexually re-offend in the foreseeable future."

9. On September 29, 2006, the Director of the Division of Consumer Affairs ("Director") held a hearing on Respondent's application for the purpose of providing an opportunity for the presentation of any additional documents or testimony that Respondent wished to offer in support

of the application. At the hearing, the application form and the letters described above were accepted into the record along with the testimony of Scelso.

10. With regard to the specific incident that led to his criminal conviction, Mr. Scelso testified that he, on two separate occasions, fondled a 10 year old girl under his care. He confirmed that at least one of these incidents involved actual penetration. (See T47).

11. Mr. Scelso acknowledged that it was "not really a question of [his] not understanding that [the conduct] was wrong at the time, it was a question of [whether Mr. Scelso] decided to control [him]self or not." (T51:15-20).

12. When questioned, Mr. Scelso confirmed that on previous occasions he had touched the "chest area, down in the private parts" of prepubescent girls and that this conduct took place from the time he "was out of high school" until "a few years before" the 1988 incident that led to his conviction. (T53:2-22). Mr. Scelso was about 44 years of age in 1988.

13. Mr. Scelso testified he continues to be sexually attracted to prepubescent girls but that his urge is controllable. (T38:8-12, T56-57). Despite this stated belief, Mr. Scelso testified to his "policy" of not working in a home with children without an adult being present. (T37:19-22).

14. When questioned whether he tells customers the reason for his "policy," Scelso said "No, that is not something that I would tell a customer . . . That is not a need to know for a customer." (T63:2-24).

15. Also accepted into the record at the hearing on September 29, 2006, were letters of personal recommendation from three men who have been acquainted with Scelso for ten years, since he became a member of their church. All of the letters referred to Scelso's work with elementary age children as part of a church program, without incident.

DISCUSSION

The Director of the Division of Consumer Affairs initially considered Respondent's application for registration, in conjunction with a review of the documents submitted, to determine whether Respondent's application for registration should be denied pursuant to N.J.S.A. 56:8-141b(6) for having been convicted of any crime involving moral turpitude or any crime relating adversely to the activity regulated by the Registration Act. After extensive consideration, the Director determined that the conviction for 2nd degree Aggravated Sexual Assault is a crime involving moral turpitude relating adversely to the activity regulated by the Registration Act.

The Director recognizes that the Registration Act provides that those who have been convicted of such offenses may obtain registration if they have shown clear and convincing evidence of rehabilitation according to the factors set forth in N.J.S.A. 56:8-141f. In that regard, the Director has also reviewed the documentation submitted both with Respondent's application, and in response to the Provisional Order of Denial. The Director has also carefully considered all documents accepted into the record at the hearing held on the application, in addition to the face to face testimony of Scelso himself. The Director has determined, based upon the entire record, that Respondent has failed to demonstrate Scelso's rehabilitation by clear and convincing evidence in that:

a. Scelso has testified to his long history, since adolescence, of having had sexual contact with prepubescent girls and to his continued sexual attraction to pre-pubescent girls. This testimony, combined with his steadfast refusal to disclose his condition to consumers of home improvement services (T63:2 to 64:7), even as a means to avoid situations which he has acknowledged would present a danger of his re-offending, causes the Director to conclude that

circumstances like those under which his offense occurred may easily reoccur should Respondent's registration be granted;

b. At the time of his offense against a ten year old victim, Scelso was a mature adult of forty-six years of age. The Director concludes that youth played no part in the conduct of this offender;

c. Scelso's offense was committed on at least two separate occasions and was not an isolated incident;

d. Scelso's testimony revealed that he had attempted to conceal his offense, which did not come to light until the victim informed her mother, approximately one year after the occurrences;

e. Scelso's testimony that his acknowledged obsessive compulsive behavior patterns are controllable by him through the use of common sense and the avoidance of temptation was not credible to the Director in light of Scelso's insistence that he would never be in situations in which consumers would need to know his history because: "[He's] not there to make friends." (T64:6-7); and

f. Scelso's purported control mechanism is all the more incredible in light of his open admission of knowing his conduct was wrong at time and not controlling it. Should Respondent be permitted to register as a home improvement contractor, the nature and responsibility of Scelso's position would permit him to perform work in homes where individuals typically exhibit complete trust, which may leave them and then young children vulnerable to someone who has been convicted of serious criminal activity who has not shown by clear and convincing evidence that he is rehabilitated.

CONCLUSIONS OF LAW

1. The above findings of fact provide grounds for denying Respondent's application for registration as a Home Improvement Contractor pursuant to N.J.S.A. 56:8-141b(6), in that Scelso's conviction for 2nd degree Aggravated Sexual Assault constitutes a crime involving moral turpitude and relates adversely to the activity regulated by the Registration Act, and Scelso has not provided sufficient evidence to demonstrate clearly and convincingly that he has been rehabilitated according to the factors contained in N.J.S.A. 56:8-141f.

ACCORDINGLY, IT IS ON THIS 21st day of December, 2006,
ORDERED that:

1. Respondent's application for registration as a Home Improvement Contractor in New Jersey is hereby denied.

NEW JERSEY DIVISION OF CONSUMER AFFAIRS

By

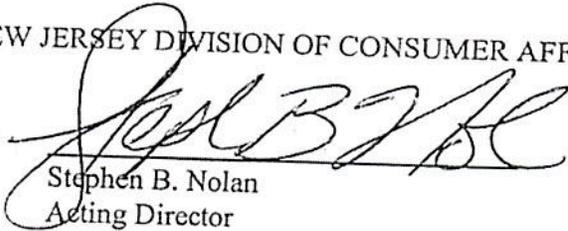

Stephen B. Nolan
Acting Director

EXHIBIT F

1 STATE OF NEW JERSEY
 2 DIVISION OF CONSUMER AFFAIRS
 3 STATE BOARD OF HEATING, VENTILATING, AIR
 4 CONDITIONING AND REFRIGERATION
 5 X ----- X
 6 INVESTIGATIVE INQUIRY
 7 IN THE MATTER OF:
 8 HARVEY PHILIP SCELSO
 9 X ----- X
 10
 11 124 Halsey Street
 12 Newark, New Jersey
 13 AUGUST 14, 2014
 14
 15
 16
 17 B E F O R E: MR. MICHAEL MALONEY
 18 MR. DOMINIC D. DeMICO JR.
 19 MR. DANIEL G. DANKO JR.
 20 MR. WILLIAM C. BARHAM
 21 MR. THOMAS C. PITCHERELLO
 22 MR. KEVIN S. CLARK
 23 MR. PAUL J. MITCHELL
 24 MS. MARY PRANZATELLI
 25
 17 ALSO PRESENT: ROSEMARIE BACCILE, Executive Director
 18
 19 A P P E A R A N C E S:
 20
 21 JOHN HOFFMAN, ACTING ATTORNEY GENERAL
 22 BY: JOSEPH DONOFRIO,
 23 Deputy Attorney General
 24 For the Board
 25
 STATE SHORTHAND REPORTING SERVICE, INC.
 P.O. BOX 227
 ALLENHURST, NEW JERSEY 07711
 732-531-9500 FAX 732-531-7969
 SSRS@STATESHORTHAND.COM

1 I N D E X
 2 WITNESS PAGE
 3 HARVEY PHILIP SCELSO
 4 By: Mr. Donofrio 8, 62
 5 By: Mr. Pitcherello 58
 6 By: Mr. Barham 59
 7 By: Mr. Maloney 60
 8
 9 EXHIBITS
 10 NO. DESCRIPTION PAGE
 11 S-1 ID Application 62
 12 S-2 ID Order terminating Megan's Law
 13 dated 7/28/14 62
 14 S-3 ID Tier classification 63
 15 S-4 ID Registrant risk assessment 63
 16 S-5 ID Registrant risk assessment scale 63
 17 S-6 ID Judgment of conviction
 18 dated 3/18/94 63
 19 S-7 ID Dr. McNeil's report dated 12/15/93 63
 20 S-8 ID Pre-sentence report 63
 21 S-9 ID Uniform defendant intake 63
 22 S-10 ID Application to terminate Megan's Law
 23 dated 9/27/13 64
 24 S-11 ID Memorandum in support of application 64
 25 S-12 ID Two page document 64
 S-13 ID Certification of Michelle Vackereth 64

1 EXHIBITS
 2 NO. DESCRIPTION PAGE
 3 S-14 ID Dr. Joseph Linares's letter
 4 dated 9/4/13 64
 5 S-15 ID Jeff Brinhurst's letter
 6 dated 9/19/13 64
 7 S-16 ID Robert Berry's letter dated 9/12/13 65
 8 S-17 ID Merilee Waddell's letter 65
 9 S-18 ID Letter naming Mr. Scelso Commander 65
 10 S-19 ID Dr. Atkins's letter dated 9/10/13 65
 11
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1 MR. MALONEY: My name is Michael
 2 Maloney, I'm the chairman of the HVAC committee.
 3 MR. DeMICO: Dominic DeMico, I'm a
 4 mechanical inspector.
 5 MR. DANKO: Dan Danko, journeyman.
 6 MR. BARHAM: Bill Barham, contractor
 7 two.
 8 MR. PITCHERELLO: Tom Pitcherello, state
 9 representative.
 10 MS. PRANZATELLI: Mary Pranzatelli,
 11 public member.
 12 MR. MITCHELL: Paul Mitchell, HVAC
 13 contractor number three.
 14 MR. CLARK: Kevin Clark, HVAC contractor
 15 number one.
 16 MS. BACCILE: Rosemarie Baccile, Acting
 17 Executive Director.
 18 MR. DONOFRIO: Joseph Donofrio, Deputy
 19 Attorney General.
 20 MR. MALONEY: Before we get started, we
 21 have a court stenographer, so you have to speak so
 22 she can understand you in a pace where she can
 23 type it in. She's good, but, you know, sometimes
 24 people talk fast and whatnot.
 25 At this time, I'm going to ask the DAG,

5

1 Joseph Donofrio, go over today's proceedings and
2 how we're going to handle them.

3 MR. DONOFRIO: Thank you, Mr. Chairman.

4 Good morning, Mr. Scelso.

5 MR. SCELSON: Good morning.

6 MR. DONOFRIO: Mr. Scelso, before I
7 begin the questioning, I'm going to go over the
8 ground rules, which will explain how we're going
9 to proceed today. If you have any questions at
10 the conclusion of my opening as to how we're going
11 to proceed or the nature of today's proceeding,
12 let us know and we'll address those for. Okay?

13 MR. SCELSON: Yes.

14 MR. DONOFRIO: Okay. Mr. Scelso, the
15 New Jersey State Board of Examiners of Heating,
16 Ventilating, Air Conditioning and Refrigeration
17 contractors is in receipt of your application for
18 licensure as a master HVACR contractor.
19 Additionally, the board is also in receipt of
20 information related to your arrest and conviction
21 history. As a result, this investigative inquiry
22 is being called at the request of the board
23 pursuant to New Jersey Statute 45:1-18.

24 The purpose of today's inquiry is to
25 obtain some background information about you and

6

1 the facts and circumstances related to your arrest
2 and conviction as it relates to your request for
3 licensure. Depending upon the board's review of
4 this matter and outcome of this process, formal
5 action may or may not be taken with regard to your
6 license.

7 I will lead the questioning, board
8 members may ask you questions as well. If you do
9 not understand any question, please ask that that
10 question be repeated or rephrased for you. You
11 will be placed under oath and a transcript will be
12 made of this inquiry. The transcript may be used
13 if there are any subsequent proceedings in this
14 case. You may choose not to answer a question if
15 that answer would implicate you in criminal
16 proceedings.

17 After today's proceeding, the board may
18 approve your application for licensure as a master
19 HVACR contractor or alternatively, the board may
20 vote to deny your request for licensure. If the
21 board votes to deny your request for licensure,
22 you will be given a full opportunity to contest
23 the board's decision.

24 Now, Mr. Scelso, I see you're here
25 today, you're alone, you're not represented by

7

1 legal counsel. Is it your intention to proceed
2 today without legal counsel?

3 MR. SCELSON: Yes.

4 MR. DONOFRIO: Okay. Please be aware if
5 at any time during the course of the inquiry, you
6 feel you would be better served by having legal
7 counsel, let the chairman know and we could
8 address that.

9 MR. SCELSON: Okay.

10 MR. DONOFRIO: Okay. We can maybe
11 adjourn the matter and afford you time to retain
12 legal counsel.

13 MR. SCELSON: Okay.

14 MR. DONOFRIO: Any questions with regard
15 to the nature of today's proceeding and why you're
16 here?

17 MR. SCELSON: No.

18 MR. DONOFRIO: If Mr. Scelso could be
19 sworn in, please?

20 HARVEY PHILIP SCELSON, 2164
21 Bellevue Avenue, Atco, New Jersey 08004, after
22 having been duly sworn, did testify as follows:

8

1 MR. DONOFRIO: Mr. Scelso, before I
2 delve into any questions concerning the arrest and
3 conviction, I'm just going to start by obtaining
4 some background information. You just gave the
5 stenographer your address. Can you give us your
6 home phone number, please, sir?

7 MR. SCELSON: (856) 767-3377.

8 MR. DONOFRIO: Mr. Scelso, how old are
9 you, sir?

10 MR. SCELSON: I'll be 71 in November.

11 MR. DONOFRIO: As I indicated in the
12 opening, you, in fact, submitted an application to
13 this board to obtain your master HVACR license: is
14 that correct?

15 MR. SCELSON: I did.

16 MR. DONOFRIO: Are you licensed in any
17 other states or jurisdictions?

18 MR. SCELSON: No. I have another license
19 in New Jersey.

20 MR. DONOFRIO: Okay. Let me ask you
21 about that then. What license do you have?

22 MR. SCELSON: Black seal.

23 MR. DONOFRIO: I'm sorry?

24 MR. SCELSON: A black seal license.

25 MR. DONOFRIO: Okay. And when did you

1 obtain that?
 2 MR. MALONEY: High pressure or low
 3 pressure?
 4 MR. SCELSON: Low pressure, about twelve
 5 years ago.
 6 MR. DONOFRIO: Okay. Are you registered
 7 as a home improvement contractor?
 8 MR. SCELSON: No.
 9 MR. DONOFRIO: Can I ask you why you
 10 were not registered as a home improvement
 11 contractor?
 12 MR. SCELSON: I was denied.
 13 MR. DONOFRIO: You were denied. When
 14 was that?
 15 MR. SCELSON: When it went into effect, I
 16 applied at the time. I don't remember now exactly
 17 when that was.
 18 MR. DONOFRIO: You don't recall
 19 approximately what year that was?
 20 MR. SCELSON: No, I don't.
 21 MR. DONOFRIO: Can I ask how you were
 22 able to engage in the practice of HVACR
 23 contracting if you did not have a home improvement
 24 license?
 25 MR. SCELSON: I worked commercial, didn't

9

1 require any permits.
 2 MR. DONOFRIO: Okay. So you didn't do
 3 any residential?
 4 MR. SCELSON: No.
 5 MR. DONOFRIO: And the reason for your
 6 denial? Was it because of your conviction and
 7 your history?
 8 MR. SCELSON: Yes.
 9 MR. DONOFRIO: Did you obtain anything
 10 from the state concerning your denial? Did they
 11 say why?
 12 MR. SCELSON: They just said -- well, I
 13 was told that they didn't like my attitude.
 14 Before I left the meeting, the lady told me we
 15 don't like your attitude, I said okay.
 16 MR. DONOFRIO: Okay. When you say lady,
 17 was there a Deputy Attorney General there?
 18 MR. SCELSON: I don't know, might have
 19 been, because she controlled the whole meeting.
 20 MR. DONOFRIO: Did you ever receive any
 21 documentation, Mr. Scelso, officially denying your
 22 request to register?
 23 MR. SCELSON: Yes.
 24 MR. DONOFRIO: Do you have a copy of
 25 that with you, sir?

10

1 MR. SCELSON: No, I don't.
 2 MR. DONOFRIO: Can you provide a copy to
 3 the board?
 4 MR. SCELSON: I don't think so. I have
 5 no idea where it's at.
 6 MR. DONOFRIO: Okay. We can probably
 7 obtain that, all right.
 8 You indicated that you only practice
 9 commercial. can you just give us a description of
 10 the types of work that you did?
 11 MR. SCELSON: Rooftop units, serviced and
 12 repaired rooftop units.
 13 MR. DONOFRIO: For what kind of
 14 commercial establishments?
 15 MR. SCELSON: Factories, strip malls,
 16 main malls.
 17 MR. DONOFRIO: Now, according to the
 18 information that you provided to the board, it
 19 appears you started an HVAC business called MAHD
 20 Systems, LLC, in 1981; is that correct?
 21 MR. SCELSON: Correct.
 22 MR. DONOFRIO: I just want to clarify
 23 one thing, in your certification that you
 24 submitted in support of your request to terminate
 25 your Megan's Law requirements --

11

1 MR. SCELSON: Yes.
 2 MR. DONOFRIO: -- it indicated that you
 3 started MAHD in 1981?
 4 MR. SCELSON: Yes.
 5 MR. DONOFRIO: But on your application
 6 for licensure that you submitted to this board, it
 7 indicates you started MAHD July 18th, 1989, can
 8 you --
 9 MR. SCELSON: I think 1989 is when I went
 10 LLC.
 11 MR. DONOFRIO: Okay. What does MAHD
 12 stand for?
 13 MR. SCELSON: Martha, Andy, Harvey and
 14 Donata.
 15 MR. DONOFRIO: Who are they?
 16 MR. SCELSON: My family, son, daughter,
 17 my wife.
 18 MR. DONOFRIO: Is MAHD still in
 19 business?
 20 MR. SCELSON: Yes. It's dormant right
 21 now.
 22 MR. DONOFRIO: Well, on your
 23 application, in fact, you indicated that the end
 24 date of MAHD System was March 21st, 2014?
 25 MR. SCELSON: I'm retired.

12

13

1 MR. DONOFRIO: Okay. So is MAHD Systems
2 still in business?

3 MR. SCELISO: Just in name, I have not
4 taken the name out of registration.

5 MR. DONOFRIO: Okay. So how would you
6 describe how you're currently engaged in the
7 practice? You're retired, you're semi-retired,
8 what type of work are you doing? Why do you want
9 your license?

10 MR. SCELISO: Well, I enjoy the work. I
11 enjoy working with people. Currently, with the
12 situation with the license, I just -- when I went
13 into retirement, I haven't done anything. I kept
14 the truck. And, hopefully, if I get my license, I
15 just go back into it again and do residential.

16 MR. DONOFRIO: So you intend to, if in
17 fact, the board grants your application for
18 licensure, you intend to go back into the
19 practice?

20 MR. SCELISO: Yeah. My son wants to --
21 he went to school and he wants to get into it now,
22 so he'll be working for me.

23 MR. DONOFRIO: I think you had also
24 indicated in your certification that you submitted
25 in support of your request to terminate your

14

1 Megan's Law registration requirement, that you get
2 calls from former customers, friends, and family.

3 Is that who you primarily service now?

4 MR. SCELISO: I refer them.

5 MR. DONOFRIO: You refer them?

6 MR. SCELISO: Yes.

7 MR. DONOFRIO: So, currently, you're not
8 doing any HVAC work?

9 MR. SCELISO: No.

10 MR. DONOFRIO: How do you support
11 yourself?

12 MR. SCELISO: Pension, Social Security.

13 MR. DONOFRIO: Who's your pension with?

14 MR. SCELISO: AT&T.

15 MR. DONOFRIO: Okay, all right. Mr.
16 Scelso, let me ask you questions concerning your
17 arrest. According to the information that the
18 board has, you were arrested on November 20th,
19 1990. You were originally charged with one count
20 of aggravated sexual assault, one count of sexual
21 assault, and one count of endangering the welfare
22 of a child; is that correct?

23 MR. SCELISO: Correct.

24 MR. DONOFRIO: And can you tell the
25 board the facts and circumstances that led to your

15

1 arrest on that date?

2 MR. SCELISO: The gory details?

3 MR. DONOFRIO: Yes.

4 MR. SCELISO: It was a 16 year old, she
5 was staying at our house. The following day --
6 this happened during the night, the follow
7 following day, I was to take her for her drivers'
8 license. And I just -- I worked night work, I
9 came home, I was a bit of a drinker back then.

10 I went to bed. My daughter convinced
11 her to come and lay in bed with us, and I began
12 touching her. And it took two years before she
13 said anything. I never threatened her. And when
14 I was approached about it, I admitted to it
15 because I knew it was wrong. But because I
16 admitted, I had to be punished. And I took my
17 punishment.

18 MR. DONOFRIO: Who was the victim? I'm
19 sorry, Mr. Scelso.

20 MR. SCELISO: Friend of my daughter's.

21 MR. DONOFRIO: A friend of your
22 daughter. How old was she?

23 MR. SCELISO: She was 16, she was going
24 to be 17 the next day. And I was taking her for
25 her drivers' license.

16

1 MR. DONOFRIO: Okay. And were you
2 convicted of this offense?

3 MR. SCELISO: Yes, I was.

4 MR. DONOFRIO: Okay. What was the date
5 of your conviction?

6 MR. SCELISO: March something, I don't
7 remember the exact date, it's in the paper.

8 MR. DONOFRIO: And was this 16 year old
9 victim the only victim?

10 MR. SCELISO: Yes.

11 MR. DONOFRIO: Who's M.R.?

12 MR. SCELISO: That's her initials.

13 MR. DONOFRIO: How old was she?

14 MR. SCELISO: 16.

15 MR. DONOFRIO: According to the
16 information we have, she was between eight and
17 nine years old?

18 MR. SCELISO: I know her as 16 years old.

19 MR. DONOFRIO: And you only offended her
20 on one occasion; is that correct?

21 MR. SCELISO: Yes.

22 MR. DONOFRIO: According to the
23 information we have, Mr. Scelso, it indicates she
24 was offended on multiple occasions and you
25 acknowledged offending against her on multiple

17

1 occasions?

2 MR. SCELISO: There was a time that I did

3 touch her in the pool, but I don't think it was

4 intentional on my part because there was other

5 kids in there. And I said, yes, I did touch her,

6 but not intentional.

7 MR. DONOFRIO: According to the --

8 MR. SCELISO: That was the second time.

9 MR. DONOFRIO: According to the Adult

10 Diagnostic Treatment Center evaluation, it

11 indicated from June of 1989 through January of

12 1990, you put your finger in an eight-year-old

13 girl's vagina, touched her buttocks and breasts.

14 MR. SCELISO: No.

15 MR. DONOFRIO: You acknowledged it

16 during the course of your interview with Dr.

17 McNiel. Do you remember doing the interview with

18 Dr. McNiel?

19 MR. SCELISO: Yes.

20 MR. DONOFRIO: Did you, in fact,

21 acknowledge having engaged in that conduct with

22 M.R.?

23 MR. SCELISO: I do not remember those

24 words, no.

25 MR. DONOFRIO: You also acknowledged

19

1 MR. SCELISO: That never happened.

2 MR. DONOFRIO: I have to say also, Mr.

3 Scelso, that she gave consistent statements

4 indicating that it happened on twelve different

5 occasions, she told her parents it happened on

6 twelve different occasions. She was consistent,

7 she told the police that it happened on twelve

8 different. And she was consistent, again, when

9 she told the prosecutor that it happened on twelve

10 different occasions.

11 You, at the time, said it happened on

12 three different occasions. You told us only it

13 happened on one occasion. Now you're saying,

14 well, maybe there was another time in the pool,

15 two occasions?

16 MR. SCELISO: Two occasions that I'm

17 positive of. The third, I do not remember.

18 MR. DONOFRIO: Let me ask you, again,

19 what were the locations where these two offenses

20 took place?

21 MR. SCELISO: One was in my house and one

22 was in the pool at my house.

23 MR. DONOFRIO: I'm at a loss, Mr.

24 Scelso. I don't understand why you say she was

25 16, when all reports and all accounts say that was

18

1 that it occurred on three different occasions?

2 MR. SCELISO: Only two that I remember.

3 MR. DONOFRIO: So now you're changing it

4 from three to two?

5 MR. SCELISO: The third one, I don't

6 know -- I do not know about the third one.

7 MR. DONOFRIO: She's saying it happened

8 twelve times.

9 MR. SCELISO: I don't know about those,

10 really.

11 MR. DONOFRIO: And you said this victim

12 that you described was 16 years old. We have

13 evidence to the contrary. And you say she that

14 was a friend of your daughter's. The information

15 that we have indicates that she was the daughter

16 of your employer?

17 MR. SCELISO: I was not employed by him,

18 no.

19 MR. DONOFRIO: And that, in fact, you

20 offered to baby sit for her on multiple occasions?

21 MR. SCELISO: No, I never baby sat for

22 her.

23 MR. DONOFRIO: Again, that's the

24 information that we have from the Adult Diagnostic

25 and Treatment Center evaluation.

20

1 she was between eight and nine years old.

2 MR. SCELISO: I don't know either.

3 MR. DONOFRIO: You were convicted -- you

4 pled guilty to the offense; is that correct?

5 MR. SCELISO: Yes.

6 MR. DONOFRIO: It was a second degree

7 offense, but you were sentenced as a third degree

8 offender; is that correct?

9 MR. SCELISO: Correct.

10 MR. DONOFRIO: You went to the Adult

11 Diagnostic Treatment Center?

12 MR. SCELISO: Yes.

13 MR. DONOFRIO: How long were you there

14 for?

15 MR. SCELISO: 23 months.

16 MR. DONOFRIO: And the victim that

17 you're referring to now, again, I'm asking you

18 that was the only victim?

19 MR. SCELISO: To my recollection.

20 MR. DONOFRIO: Okay. What about your

21 ten year old niece, Mr. Scelso?

22 MR. SCELISO: Never.

23 MR. DONOFRIO: Okay. And, again,

24 according to all the information that we have,

25 that you supplied to us, sir, it indicates that

1 you readily admitted having offended against your
2 ten year old niece.

3 MR. SCELISO: Did not. She never came
4 forward, nothing, nothing of that nature happened.

5 MR. DONOFRIO: According to the accounts
6 that we have, again, which were supplied by you,
7 it states that you were touching her vagina when
8 your wife walked in and caught you?

9 MR. SCELISO: That's untrue.

10 MR. DONOFRIO: Again, this is the
11 information that you relayed to Dr. McNiel. Were
12 you not being truthful with Dr. McNiel at the time
13 of the evaluation for ADTC?

14 MR. SCELISO: I may not have.

15 MR. DONOFRIO: Okay. And why was that?

16 MR. SCELISO: I don't know. I may have
17 been under stress.

18 MR. DONOFRIO: Was it because you feared
19 incarceration, would rather do your time served at
20 Avenel as opposed to a state penitentiary?

21 MR. SCELISO: I had my choice. The judge
22 told me to take Avenel, where I can get treatment.

23 MR. DONOFRIO: Well, the choice was
24 contingent on whether or not you were deemed to be
25 a repetitive and compulsive sex offender, correct?

1 MR. SCELISO: No.

2 MR. DONOFRIO: Were you sexually
3 attracted to young girls?

4 MR. SCELISO: I read a lot of books, I
5 had a lot of books on them.

6 MR. DONOFRIO: What does that mean?

7 MR. SCELISO: Explicit books, magazines.

8 MR. DONOFRIO: Okay. So you had an
9 interest in young girls?

10 MR. SCELISO: Yes.

11 MR. DONOFRIO: How old were you at the
12 time of the offense?

13 MR. SCELISO: I was in my 40s.

14 MR. DONOFRIO: In your 40s. And this
15 attraction to young girls, when did it start?

16 MR. SCELISO: I was a teenager.

17 MR. DONOFRIO: And you never acted out
18 until you acted out when you were --

19 MR. SCELISO: Until those times, yes.

20 MR. DONOFRIO: That was the first time?

21 MR. SCELISO: Yes.

22 MR. DONOFRIO: And you don't recall
23 offending against your niece?

24 MR. SCELISO: No, I do not.

25 MR. DONOFRIO: Despite your

1 MR. SCELISO: From what I understand, it
2 was a choice that I could take, either Fort Dix or
3 Avenel.

4 MR. DONOFRIO: After Dr. McNiel's
5 evaluation, he concluded that, in fact, you were a
6 repetitive and compulsive sex offender, correct?

7 MR. SCELISO: That's what he put there,
8 yes.

9 MR. DONOFRIO: And a lot of that was
10 based on his interview with you whereby you
11 admitted that you had a history of sexual arousal
12 and ejaculation associated with young females; is
13 that correct? Did you tell Dr. McNiel that?

14 MR. SCELISO: Yes.

15 MR. DONOFRIO: And you also told him
16 that it was an addiction that you had; is that
17 correct?

18 MR. SCELISO: No.

19 MR. DONOFRIO: Again, this is according
20 to the information in Dr. McNiel's report --

21 MR. SCELISO: I would never know if it
22 was an addiction.

23 MR. DONOFRIO: You never told him that
24 you had an addiction to being sexually attracted
25 to young girls?

1 acknowledgment and admission that you offended
2 against her --

3 MR. SCELISO: I do not recall.

4 MR. DONOFRIO: Mr. Scelso, are you
5 currently on any medication?

6 MR. SCELISO: For heart and blood
7 pressure.

8 MR. DONOFRIO: Does that affect your
9 cognitive capacity? Your capacity to recall?

10 MR. SCELISO: I do not know that.

11 MR. DONOFRIO: Are you on the medication
12 now?

13 MR. SCELISO: Yes.

14 MR. DONOFRIO: When is the last time you
15 took it?

16 MR. SCELISO: This morning.

17 MR. DONOFRIO: What's the name of the
18 medication?

19 MR. SCELISO: Lisinopril and I can't
20 think of the other one.

21 MR. DONOFRIO: Can you provide that to
22 us?

23 MR. SCELISO: I have a list at home, yes.

24 MR. DONOFRIO: Okay. If you could
25 provide us with a list, including the medication

25

1 and the dosage and when you take it?
 2 MR. SCELISO: Yes.
 3 MR. DONOFRIO: Okay. I want to go
 4 through some more of the information that you
 5 provided to Dr. McNiel as part of his evaluation.
 6 As I indicated, it says you acknowledge a history
 7 of sexual arousal and ejaculation associated with
 8 these fantasies; i.e., young girls. You deny
 9 saying that?
 10 MR. SCELISO: I do not recollect saying
 11 that. I can't say that I deny it, I may have told
 12 him that.
 13 MR. DONOFRIO: Okay. Well, let me ask
 14 you about the statement in and of itself. Is the
 15 statement true?
 16 MR. SCELISO: In my younger years, yes.
 17 MR. DONOFRIO: Well, during the time of
 18 the interview you were what, late 40s, 50?
 19 MR. SCELISO: Late 40s.
 20 MR. DONOFRIO: Okay. So you were
 21 telling him that you have a contemporaneous
 22 arousal, not in the past?
 23 MR. SCELISO: I guess it depends on how I
 24 was questioned.
 25 MR. DONOFRIO: According to Dr. McNiel's

27

1 MR. SCELISO: Correct.
 2 MR. DONOFRIO: So presumably you still
 3 had the attraction during the time of the
 4 interview, no?
 5 MR. SCELISO: It's a possibility, yes.
 6 MR. DONOFRIO: Okay. So I'm going to
 7 ask you again. The statements that you gave to
 8 Dr. McNiel, whether you recall them or not, the
 9 content of those statements, were they true?
 10 MR. SCELISO: Yes.
 11 MR. DONOFRIO: Dr. McNiel also
 12 administered some objective psychological tests,
 13 one of which was the MMPI, the Minnesota
 14 Multiphase Personality Inventory. Do you recall
 15 taking that exam?
 16 MR. SCELISO: I do not recall that.
 17 MR. DONOFRIO: That particular profile
 18 indicated elevations notable for antisocial
 19 tendencies, poor frustration tolerance, and a
 20 self-centered, hedonistic nature, do you
 21 understand what that means?
 22 MR. SCELISO: No.
 23 MR. DONOFRIO: You don't understand what
 24 that means? You know what it means to be
 25 self-centered?

26

1 report, you admitted a sexual attraction to young
 2 girls and fantasies regarding fondling young
 3 girls. Did you tell him that?
 4 MR. SCELISO: I do not recollect telling
 5 him that, but it's a possibility.
 6 MR. DONOFRIO: Well, let me ask you
 7 about the validity of the statement. Is that a
 8 true statement?
 9 MR. SCELISO: In my younger years, yes.
 10 MR. DONOFRIO: What is younger years?
 11 MR. SCELISO: My 20s.
 12 MR. DONOFRIO: When did all this
 13 attraction --
 14 MR. SCELISO: 20s, teenage.
 15 MR. DONOFRIO: -- desire for girls, when
 16 did this desire all of a sudden terminate?
 17 MR. SCELISO: When I became saved.
 18 MR. DONOFRIO: When you became saved.
 19 When was that?
 20 MR. SCELISO: 1996.
 21 MR. DONOFRIO: After you were released
 22 from Avenel?
 23 MR. SCELISO: No, during Avenel.
 24 MR. DONOFRIO: Okay. We're talking
 25 about an interview prior to Avenel.

28

1 MR. SCELISO: Yes.
 2 MR. DONOFRIO: You know what it means to
 3 be antisocial?
 4 MR. SCELISO: Yes. That's about it.
 5 MR. DONOFRIO: All right. You don't
 6 know what hedonistic means?
 7 MR. SCELISO: No.
 8 MR. DONOFRIO: With regard to the
 9 antisocial and self-centered tendencies, do you
 10 agree with that assessment?
 11 MR. SCELISO: Presently or past?
 12 MR. DONOFRIO: At the time.
 13 MR. SCELISO: Possibility.
 14 MR. DONOFRIO: So you would say that
 15 that doesn't currently describe you?
 16 MR. SCELISO: Currently, no.
 17 MR. DONOFRIO: You also participated in
 18 a sexuality questionnaire whereby you indicated,
 19 quote, the hardest thing about accepting my sexual
 20 feelings is that it is an addiction. Do you
 21 recall saying that on the questionnaire?
 22 MR. SCELISO: No, I do not recall saying
 23 that.
 24 MR. DONOFRIO: And, again, I'll ask you
 25 at the time of the interview, did you have this

29

1 addiction?

2 MR. SCELISO: I would not have called it
3 an addiction.

4 MR. DONOFRIO: You did call it an
5 addiction.

6 MR. SCELISO: Okay.

7 MR. DONOFRIO: What would you call it?

8 MR. SCELISO: Addiction is a hard thing
9 to describe.

10 MR. DONOFRIO: Do the best you can.

11 MR. SCELISO: I guess it's like drinking,
12 it's drugs, I'll consider it an addiction.

13 MR. DONOFRIO: Okay. So it's an
14 addiction similar to drinking and drugs; is that
15 correct?

16 MR. SCELISO: In my mind, yes.

17 MR. DONOFRIO: Okay. And I don't
18 profess to be an expert in drug addiction, I don't
19 profess to be an expert in alcohol addiction, but
20 my understanding is you never really eradicate the
21 addiction, you learn to control it; is that
22 correct?

23 MR. SCELISO: Correct.

24 MR. DONOFRIO: So as you stated, you
25 have this addiction, it's never really eradicated,

31

1 it?

2 MR. SCELISO: Very well, yes.

3 MR. DONOFRIO: How did you learn to
4 control it?

5 MR. SCELISO: With the Lord.

6 MR. DONOFRIO: So you're a member of a
7 church?

8 MR. SCELISO: I am.

9 MR. DONOFRIO: And I certainly want to
10 ask you about that because it is evidence of, you
11 know, your argument that there's rehabilitation,
12 so I'll certainly ask you about current
13 involvement in the church. But I just want to
14 flesh some more of the facts concerning your
15 interview with Dr. McNiel and the underlying
16 circumstances which led to your conviction.

17 Did you tell the victim that the acts
18 that you were engaging in with her were foreplay
19 and explain to her that it was what her father and
20 mother did?

21 MR. SCELISO: No.

22 MR. DONOFRIO: That's what she said.

23 MR. SCELISO: I never said anything like
24 that.

25 MR. DONOFRIO: That's what she repeated

30

1 what you try to do is control it; is that correct?

2 MR. SCELISO: Yes.

3 MR. DONOFRIO: So if you had the
4 addiction then, presumably you have it now?

5 MR. SCELISO: No.

6 MR. DONOFRIO: Well, you just said you
7 never really eradicate the addiction?

8 MR. SCELISO: You said that and I agree.

9 MR. DONOFRIO: You did agree?

10 MR. SCELISO: Yes.

11 MR. DONOFRIO: So if we both agree that
12 you can't eradicate the addiction, that you just
13 learn to control it, presumably you still have the
14 addiction, you just learned to control it
15 arguably?

16 MR. SCELISO: I would say at this point
17 in time, over all these years, I don't have it
18 anymore.

19 MR. DONOFRIO: You've eliminated your
20 addiction?

21 MR. SCELISO: I've controlled it.

22 MR. DONOFRIO: That's the point I'm
23 trying to make, sir.

24 MR. SCELISO: Yes.

25 MR. DONOFRIO: You learned to control

32

1 on multiple occasions, you deny saying that?

2 MR. SCELISO: I deny saying that.

3 MR. DONOFRIO: I'm just curious how an
4 eight year old, nine year old, would know about
5 foreplay?

6 MR. SCELISO: School.

7 MR. DONOFRIO: Okay. Also according to
8 the victim, you told her it was okay to do these
9 things, that you did them to your fifteen year old
10 daughter, and she enjoyed it. Did you tell her
11 that?

12 MR. SCELISO: No, I did not.

13 MR. DONOFRIO: Again, that's a statement
14 that she consistently gave to police, to her
15 parents, and to the prosecutor's investigator.

16 Let me ask you: When you went before the judge to
17 enter your plea, did you have to allocute? Did
18 you have to tell the judge what you did?

19 MR. SCELISO: No.

20 MR. DONOFRIO: He just accepted your
21 plea to criminal sexual contact without any
22 factual basis?

23 MR. SCELISO: I didn't give it to him
24 verbally, my lawyer may have had it written down
25 and did it that way.

33

1 MR. DONOFRIO: Did the lawyer ask you
 2 questions?
 3 MR. SCELSON: Yes.
 4 MR. DONOFRIO: Okay. What questions did
 5 he ask you, do you recall?
 6 MR. SCELSON: I don't recall.
 7 MR. DONOFRIO: You don't recall?
 8 MR. SCELSON: No, it's a long time ago.
 9 MR. DONOFRIO: I understand. But I
 10 think when something as traumatic being sentenced
 11 for criminal sexual contact and being incarcerated
 12 for it, you might recall that. But if you don't
 13 recall it, you don't recall it.
 14 MR. SCELSON: All these years, I've tried
 15 to put it behind me. You're just opening up old
 16 wounds.
 17 MR. DONOFRIO: Sir, what I'm trying to
 18 do is ascertain where you are currently with
 19 regard to your acknowledgment of your past, your
 20 treatment, and your ability to control what we
 21 both agree was an addiction?
 22 MR. SCELSON: Yes, okay.
 23 MR. DONOFRIO: And, again, just one more
 24 question with regard to your daughter. I'm just
 25 curious because in your certification that you

34

1 submitted in support of your request to terminate
 2 your Megan's Law requirement, you indicated that
 3 you, quote, resumed your relationship with your
 4 son, Andrew, and daughter, Donata. Can I just ask
 5 why -- did the relationship sour at some point?
 6 MR. SCELSON: Because I was incarcerated,
 7 they held it against me. They were bitter.
 8 MR. DONOFRIO: Okay. And how is your
 9 relationship with them currently?
 10 MR. SCELSON: Very well. I made changes,
 11 I changed my whole life around.
 12 MR. DONOFRIO: I just want to go back to
 13 the offense that's reported concerning your ten
 14 year old niece, which, you know, admittedly you
 15 were never prosecuted for. As I indicated, it
 16 stated that your wife caught you touching --
 17 MR. SCELSON: I don't even remember a ten
 18 year old. I do have a couple nieces, but I don't
 19 think they were ten years old at the time.
 20 MR. DONOFRIO: And you don't remember
 21 ever fondling her vagina?
 22 MR. SCELSON: No.
 23 MR. DONOFRIO: Do you deny it or do you
 24 not recall it?
 25 MR. SCELSON: I don't recall it.

35

1 MR. DONOFRIO: If we were to subpoena
 2 your wife and she would be placed under oath and,
 3 again, I know this is -- you don't know what her
 4 state of mind is and what she would testify to --
 5 MR. SCELSON: That's true.
 6 MR. DONOFRIO: She would acknowledge
 7 that this happened?
 8 MR. SCELSON: I do not know what she
 9 would say.
 10 MR. DONOFRIO: I just want to clarify
 11 now because I'm confused. I mean you stated that
 12 there was a 16 year old victim, we have reports of
 13 an eight year old?
 14 MR. SCELSON: In my mind --
 15 MR. DONOFRIO: In your mind, she was 16?
 16 You have to answer verbally.
 17 MR. SCELSON: Yes. In my mind, she was
 18 16.
 19 MR. DONOFRIO: And going for her
 20 drivers' license?
 21 MR. SCELSON: Yes.
 22 MR. DONOFRIO: What was her name?
 23 MR. SCELSON: I don't remember it now.
 24 MR. DONOFRIO: You said she was your
 25 daughter's friend?

36

1 MR. SCELSON: Yes.
 2 MR. DONOFRIO: Your daughter would
 3 remember probably, right?
 4 MR. SCELSON: Probably.
 5 MR. DONOFRIO: And your then-fifteen
 6 year old daughter would not be friends with an
 7 eight or nine year old?
 8 MR. SCELSON: No.
 9 MR. DONOFRIO: Was this an additional
 10 victim, Mr. Scelso?
 11 MR. SCELSON: No.
 12 MR. DONOFRIO: Did you baby sit for your
 13 employer's daughter?
 14 MR. SCELSON: I never baby sat.
 15 MR. DONOFRIO: On multiple occasions?
 16 MR. SCELSON: I never baby sat. It's not
 17 part -- it's not something that I would do.
 18 MR. DONOFRIO: You never volunteered to
 19 watch your employer's daughter?
 20 MR. SCELSON: No, I did not.
 21 MR. DONOFRIO: When you were in his
 22 employ?
 23 MR. SCELSON: No.
 24 MR. DONOFRIO: So, again, if we
 25 subpoenaed your former employer to come testify,

1 he would say that was not the case as well?

2 MR. SCELSON: I do not know what he would
3 say.

4 MR. DONOFRIO: Is this something that
5 you don't remember or don't recall?

6 MR. SCELSON: I was never alone in the
7 office, secretary was always there.

8 MR. DONOFRIO: Well, the reports were
9 that there were occasions where you would bring
10 the girl to your house.

11 MR. SCELSON: She was invited over to go
12 in the pool.

13 MR. DONOFRIO: And one of the offending
14 instances occurred in the pool?

15 MR. SCELSON: Yes.

16 MR. DONOFRIO: One of the offending
17 instances occurred in her living room?

18 MR. SCELSON: No. I don't think I've
19 ever been in the house.

20 MR. DONOFRIO: One of the offending
21 instances occurred, I think, in their dining room.
22 Are you denying that?

23 MR. SCELSON: I've -- I don't ever recall
24 being in their house, only in the office.

25 MR. DONOFRIO: What was your employer's

1 name?

2 MR. SCELSON: James Miller. And he was
3 not my employer. I didn't work for him. He was
4 just a friend.

5 MR. DONOFRIO: The offense that you were
6 convicted for was based on his daughter's
7 allegations, you would acknowledge that, correct?

8 MR. SCELSON: Yes.

9 MR. DONOFRIO: And she was also friends
10 with your daughter?

11 MR. SCELSON: No. In my mind at that
12 time, she was. When you're trying to forget
13 things, it gets all jumbled up and messed up.

14 MR. DONOFRIO: It seems to me though,
15 sir, that as part of your rehabilitation and your
16 ongoing efforts to prevent from re-offending that
17 you would be cognizant of your past, that you
18 would be cognizant of what you need to do in terms
19 of preventing re-offending?

20 MR. SCELSON: I am, but I don't dwell on
21 my past. It's gone, it's done. I made a mistake,
22 I've paid my price. And I want to move on and let
23 it never happen again. That's my view.

24 MR. DONOFRIO: Let me ask you about your
25 treatment at the ADTC, what did your treatment

1 consist of?

2 MR. SCELSON: Not being a victim.

3 MR. DONOFRIO: You were a victim?

4 MR. SCELSON: Owning up. Most people
5 were and they teach you how not to be a victim,
6 how to own up to what you did, not to blame
7 somebody else.

8 MR. DONOFRIO: Okay. The part that you
9 just mentioned, owning up to what you did, is that
10 a momentary thing or is that throughout the course
11 of the rest of your life?

12 MR. SCELSON: Throughout the course of
13 the rest of my life. I did it and I don't deny
14 it.

15 MR. DONOFRIO: Do you feel that you're
16 owning up to it today?

17 MR. SCELSON: I do.

18 MR. DONOFRIO: Do you feel that you're
19 owning up to Dr. McNeil's evaluation and the
20 statements you made to him at the time?

21 MR. SCELSON: Dr. McNeil was a strange
22 bird. I did not like the man. But it is a

23 possibility that he coerced me into saying things
24 that I didn't really want to say or shouldn't have
25 said or that -- I don't remember -- let me put it

1 to you this way going with his interview was a bad
2 experience.

3 MR. DONOFRIO: Why?

4 MR. SCELSON: Because he looks -- he
5 looked down on me, he ridiculed me. I just didn't
6 like the way he treated me, inhuman, in my
7 estimation.

8 MR. DONOFRIO: Give us an example? I
9 mean you certainly don't glean that from a reading
10 of his report, it seems to be very objective?

11 MR. SCELSON: Well, he may have been, but
12 he kind of coerced you in answers to questions
13 that he asked. He kind of insults you -- hard to
14 explain. I just did not like the man.

15 MR. DONOFRIO: So those --

16 MR. SCELSON: But I had to be there.

17 MR. DONOFRIO: So those instances of
18 your experience with Mr. McNeil you remember,
19 others you don't, is that your testimony?

20 MR. SCELSON: Not really, no.

21 MR. DONOFRIO: Give us an example of how
22 he coerced you, I'm confused?

23 MR. SCELSON: He would -- he would --
24 things that are in the report, he would tell me
25 that's what happened. And he would get me so

41

1 frustrated that there would be times that I think
 2 that I would just agree, just to get him to back
 3 off.
 4 MR. DONOFRIO: Let go back to your
 5 treatment at ADTC, discuss with us some of the
 6 groups that you attended and what their purpose
 7 was and what you learned, things of that nature?
 8 MR. SCELISO: Well, I attended a marriage
 9 group. I treated my wife poorly, extremely poor.
 10 And I learned that's not the way it should be,
 11 it's -- I learned to respect her, to love her. My
 12 family, saying that I treated them poorly.
 13 I was in a group where, like I said,
 14 learning not to be the victim in this society. I
 15 learned how not to be a victim, how to admit my
 16 guilt.
 17 MR. DONOFRIO: And how do you learn not
 18 to be a victim? Be more specific, if you could?
 19 MR. SCELISO: I'm not a victim, but what
 20 I did I chose to do. I wasn't coerced by society
 21 around me, it's something that I did. And I admit
 22 to that. When I first went in, I didn't want to
 23 admit to it. I played the victim role, you know.
 24 Everybody around me, everything around me caused
 25 me all this aggravation to lash out. It's not

43

1 MR. DONOFRIO: So do you attribute your
 2 salvation as being the reason why you'll never
 3 re-offend more so than the treatment you received
 4 at Avenel?
 5 MR. SCELISO: Correct.
 6 MR. DONOFRIO: When you were released
 7 from Avenel, did you go into any aftercare
 8 programs? Did you receive any counseling?
 9 MR. SCELISO: No -- well, I did see a
 10 psychologist.
 11 MR. DONOFRIO: Who was that?
 12 MR. SCELISO: Dr. Atkinson.
 13 MR. DONOFRIO: Is it Atkinson or Atkins?
 14 MR. SCELISO: Dr. Atkins.
 15 MR. DONOFRIO: Dr. Atkins?
 16 MR. SCELISO: Yes.
 17 MR. DONOFRIO: But your release from
 18 Avenel was not the first time you saw Dr. Atkins?
 19 MR. SCELISO: No, I seen Dr. Atkins
 20 before I went in. And I continued on with him
 21 even to present, today.
 22 MR. DONOFRIO: Actually you saw him
 23 before you were arrested, isn't that true?
 24 MR. SCELISO: I don't know if it was
 25 before I was arrested. I know I went to a

42

1 true, it's choices that we make.
 2 MR. DONOFRIO: What is the significant
 3 others group? That's one of the groups that you
 4 attended, can you describe what that is?
 5 MR. SCELISO: That's -- I don't remember
 6 exactly what that group is by name. It's where
 7 you try to get your family, learn how to deal with
 8 your family, and not harass them and -- it's hard
 9 to explain, I just can't explain that. I hated my
 10 sister, I learned how to love her.
 11 MR. DONOFRIO: But in terms of coping
 12 with the addiction, the sexual attraction to young
 13 girls, explain those modalities, what did you
 14 learn there? How do you prevent re-offending?
 15 MR. SCELISO: Once I became saved, I
 16 realized in my mind that it's a sin to do.
 17 MR. DONOFRIO: Now, just to be clear,
 18 you were saved after you were released from
 19 Avenel? I want to know specifically --
 20 MR. SCELISO: I was saved in Avenel,
 21 within the first year. That's when I started to
 22 take all these programs that they offered and
 23 really get into them and learn what they were
 24 teaching me. I wasn't fighting it anymore, as I
 25 was previously.

44

1 psychologist or a psychiatrist, but I don't know
 2 if it was him, because we were having marital
 3 problems.
 4 MR. DONOFRIO: Okay. So you attended
 5 counseling with Dr. Atkins with your wife; isn't
 6 that correct?
 7 MR. SCELISO: I believe so, yes.
 8 MR. DONOFRIO: Wasn't that because of
 9 her catching you with your ten year old niece?
 10 MR. SCELISO: No.
 11 MR. DONOFRIO: Did that subject ever
 12 come up in the course of the counseling?
 13 MR. SCELISO: It may have.
 14 MR. DONOFRIO: It may have?
 15 MR. SCELISO: I don't know, I don't
 16 remember.
 17 MR. DONOFRIO: How many counseling
 18 sessions did you have with Dr. Atkins at that
 19 time?
 20 MR. SCELISO: I don't remember. Usually
 21 it was once a week.
 22 MR. DONOFRIO: According to Dr. McNiel's
 23 report, you told him that it was on six different
 24 occasions?
 25 MR. SCELISO: Could have been six weeks.

45

1 MR. DONOFRIO: Why did you terminate the
 2 counseling?
 3 MR. SCELSO: Well, when you're bull
 4 headed --
 5 MR. DONOFRIO: I'm sorry?
 6 MR. SCELSO: I said when I'm bull
 7 headed, nothing is my fault. So I didn't think he
 8 was doing anything for me.
 9 MR. DONOFRIO: Oh, so you didn't feel it
 10 was effective?
 11 MR. SCELSO: Correct.
 12 MR. DONOFRIO: You told Dr. McNiel it
 13 was for financial reasons.
 14 MR. SCELSO: My insurance paid for it.
 15 MR. DONOFRIO: Which is it? Is it -- so
 16 it's not financial, it's because you were bull
 17 headed?
 18 MR. SCELSO: It's because I was bull
 19 headed.
 20 MR. DONOFRIO: So what you told Dr.
 21 McNiel at that time was not correct?
 22 MR. SCELSO: Yes.
 23 MR. DONOFRIO: Yes, it was not correct?
 24 MR. SCELSO: Yes, it was not correct.
 25 MR. DONOFRIO: Okay. So you're not

47

1 today?
 2 MR. SCELSO: Inclinations, not
 3 fantasies.
 4 MR. DONOFRIO: Differentiate the two in
 5 your mind? I don't understand. So you would be
 6 inclined to offend, is that what you're saying.
 7 MR. SCELSO: No, not what I'm saying.
 8 MR. DONOFRIO: What are you dismissing
 9 from your mind?
 10 MR. SCELSO: I'm dismissing an
 11 inclination. If I look at a young girl, I could
 12 dwell on her, but I won't. That's the difference.
 13 MR. DONOFRIO: So you're looking at her
 14 with an initial attraction, I would assume,
 15 correct? That's what you're trying to dismiss,
 16 that's what you're praying on?
 17 MR. SCELSO: If you put it that way,
 18 yes.
 19 MR. DONOFRIO: Okay. What other relapse
 20 prevention strategies are there?
 21 MR. SCELSO: I don't know. That works
 22 for me.
 23 MR. DONOFRIO: Just prayer?
 24 MR. SCELSO: It works for me very well,
 25 prayer. I have a person at church that I answer

46

1 involved in any treatment since you were released
 2 from Avenel? I want some more detail as to what
 3 you learned, if anything, from your time at
 4 Avenel? Have you ever heard the term triggers?
 5 MR. SCELSO: No.
 6 MR. DONOFRIO: You don't know what
 7 triggers are? Have you ever heard the term
 8 relapse prevention?
 9 MR. SCELSO: Yes.
 10 MR. DONOFRIO: And what is that term?
 11 MR. SCELSO: That's -- relapse
 12 prevention is what I do every day.
 13 MR. DONOFRIO: Which is?
 14 MR. SCELSO: I pray, keep my mind clean.
 15 If an inkling comes into my mind, I pray it away
 16 and it works. I've been clean.
 17 MR. DONOFRIO: What kind of inkling?
 18 MR. SCELSO: Oh, any kind of inkling.
 19 If I see a young girl walking, I'm not to have any
 20 thoughts about -- unclean thoughts about her. I
 21 got to treat her as a human being.
 22 MR. DONOFRIO: Okay.
 23 MR. SCELSO: Respect her as a woman.
 24 MR. DONOFRIO: So you do still have
 25 fantasies and inclinations about young girls

48

1 to, I've been answering to him since 1996.
 2 MR. DONOFRIO: Who is that?
 3 MR. SCELSO: It's -- he's a friend of
 4 mine at church.
 5 MR. DONOFRIO: Can you tell us his name?
 6 MR. SCELSO: I'd rather not.
 7 MR. DONOFRIO: Let me just ask you: Did
 8 he supply one of the certifications that was
 9 submitted to this board?
 10 MR. SCELSO: No, he did not.
 11 MR. DONOFRIO: All right. I won't ask
 12 any personal questions concerning that
 13 relationship.
 14 MR. SCELSO: I call him my
 15 accountability partner.
 16 MR. DONOFRIO: Just to get a general
 17 idea of what the nature of the relationship is,
 18 this is somebody that you attend church with?
 19 MR. SCELSO: Yes, that I confide in. He
 20 knows my background, he's concerned. We talk
 21 and --
 22 MR. DONOFRIO: So all of your counseling
 23 is of a spiritual nature? There's no
 24 psychological or current psychiatric treatment?
 25 MR. SCELSO: Correct.

114

49

1 MR. DONOFRIO: There hasn't been since
 2 your release from Avenel; is that correct?
 3 MR. SCELSON: Not really. I've been to
 4 Dr. Atkins.
 5 MR. DONOFRIO: Well, you went to Dr.
 6 Atkins in conjunction with your request to be
 7 removed from the Megan's Law registration?
 8 MR. SCELSON: That's just recently.
 9 MR. DONOFRIO: Right. So you had
 10 treatment with Dr. Atkins after Avenel?
 11 MR. SCELSON: Yes.
 12 MR. DONOFRIO: I'm confused. I thought
 13 I had asked you whether you had any treatment
 14 after --
 15 MR. SCELSON: Not treatment, Avenel
 16 required treatment. I would just go there because
 17 he wanted to know how I was doing. And I would go
 18 and we would sit and talk.
 19 MR. DONOFRIO: Was it court order?
 20 MR. SCELSON: No, it was on my volition.
 21 MR. DONOFRIO: When did this occur?
 22 When is the last time you saw Dr. Atkins, aside
 23 from his certification that he provided in support
 24 of your request to be released from Megan's Law
 25 registration?

51

1 MR. DONOFRIO: Okay. What is AWANA?
 2 MR. SCELSON: AWANA was a group that I
 3 was helping till they found somebody to replace
 4 me. I was doing the paperwork.
 5 MR. DONOFRIO: It's a youth group?
 6 MR. SCELSON: It's a youth group, but I
 7 did all the paperwork for it. Making the
 8 arrangements, renting the places to have the
 9 organization. I did all the non-involvement with
 10 the children themselves.
 11 MR. DONOFRIO: Why would you join a
 12 youth group or be involved with a youth group if
 13 part of relapse prevention is to avoid contact --
 14 MR. SCELSON: I did not have contact with
 15 the children, that's why I was doing the part that
 16 I did. And it was only until I could find
 17 somebody to replace me.
 18 MR. DONOFRIO: Didn't you achieve a
 19 position of high command or something along those
 20 lines?
 21 MR. SCELSON: I took the test.
 22 MR. DONOFRIO: You did?
 23 MR. SCELSON: I took the test.
 24 MR. DONOFRIO: What is the high command?
 25 MR. SCELSON: Just it's a badge, it's

50

1 MR. SCELSON: I would say probably in
 2 eight years ago, six years ago, six, eight years
 3 ago.
 4 MR. DONOFRIO: So you haven't had any
 5 treatment or any therapy --
 6 MR. SCELSON: No.
 7 MR. DONOFRIO: -- other than of a
 8 spiritual nature for eight years?
 9 MR. SCELSON: Correct.
 10 MR. DONOFRIO: And when you get an
 11 inclination with regard to a young girl, you
 12 simply pray on it?
 13 MR. SCELSON: Correct. And it works.
 14 MR. DONOFRIO: Could we agree that maybe
 15 some of relapse prevention would be avoiding
 16 situations whereby --
 17 MR. SCELSON: I do that on my own.
 18 MR. DONOFRIO: You do that?
 19 MR. SCELSON: I do that.
 20 MR. DONOFRIO: How do you do that?
 21 MR. SCELSON: I stay away from crowds of
 22 young adults, children. I do not get involved.
 23 MR. DONOFRIO: And you've been doing
 24 that since you were released from Avenel?
 25 MR. SCELSON: Correct.

52

1 just another badge, like being in the Boy Scouts,
 2 you get the next badge. I never used it.
 3 MR. DONOFRIO: At the time that you were
 4 involved with AWANA -- by the way what does AWANA
 5 stand for? Do you know what it stands for?
 6 MR. SCELSON: I don't remember now, I
 7 haven't been in there in years.
 8 MR. DONOFRIO: What tier classification
 9 were you at that time?
 10 MR. SCELSON: One.
 11 MR. DONOFRIO: I think you were a two.
 12 MR. SCELSON: No, I was a one.
 13 MR. DONOFRIO: According to the
 14 information --
 15 MR. SCELSON: I came out as a two.
 16 MR. DONOFRIO: Came out as a two.
 17 MR. SCELSON: And I went to court and I
 18 was reduced to a one.
 19 MR. DONOFRIO: In 1999.
 20 MR. SCELSON: No, it was before that.
 21 MR. DONOFRIO: I have an order, sir,
 22 that says -- I looked for the exact date, but it
 23 appears that a judge granted your request to
 24 mother you from a two to one in 1999.
 25 MR. SCELSON: Wow.

53

1 MR. DONOFRIO: What were your years of
 2 involvement with AWANA?
 3 MR. SCELISO: That was probably '97 to
 4 '99.
 5 MR. DONOFRIO: Okay.
 6 MR. SCELISO: Two years.
 7 MR. DONOFRIO: So assuming the judge's
 8 order is correct, you were a tier two at that
 9 time?
 10 MR. SCELISO: I can't -- tier two was --
 11 MR. DONOFRIO: Tier two is a moderate
 12 risk.
 13 MR. SCELISO: Moderate risk. And it was
 14 on the internet, I did not want to be on the
 15 internet.
 16 MR. DONOFRIO: According to the attorney
 17 general guidelines, and I think pursuant to
 18 statute, a tier two requires notification to youth
 19 groups.
 20 MR. SCELISO: My pastor knew.
 21 MR. DONOFRIO: To schools.
 22 MR. SCELISO: He knew my background.
 23 MR. DONOFRIO: Okay. It just seems odd
 24 to me that a tier two offender and somebody who,
 25 you know, hopefully would have incorporated

55

1 apparently, why the judge was able to lower your
 2 tier classification because you only had the one
 3 conviction?
 4 MR. SCELISO: Correct.
 5 MR. DONOFRIO: He couldn't count your
 6 niece as one of the victims, is that correct,
 7 because there was no conviction?
 8 MR. SCELISO: There was no -- nothing
 9 there, that's why there was no conviction.
 10 MR. DONOFRIO: Presumably had you been
 11 convicted of a second offense, you would not have
 12 qualified for the modification for the elimination
 13 from Megan's Law, is that your understanding?
 14 MR. SCELISO: I don't know if that played
 15 a part in it. I know time played a part in it.
 16 There was different things, the whole list of
 17 things that you check off.
 18 MR. DONOFRIO: Mr. Scelso, I'm going to
 19 be fair with you, you gave us a lot of
 20 documentation with regard to the elimination from
 21 your tier requirement. I'm going to have that
 22 marked for identification and submitted as part of
 23 the record. You submitted letters of
 24 recommendation from your parish, from your church,
 25 okay, from the congregation, I'm going to have

54

1 relapse prevention techniques would be involved in
 2 a youth group for three to four year period?
 3 MR. SCELISO: But I was not involved with
 4 the children.
 5 MR. DONOFRIO: What were your
 6 responsibilities? What were your functions?
 7 MR. SCELISO: The paperwork, I did all
 8 the paperwork. I made the arrangements for the
 9 places to have the groups attend.
 10 MR. DONOFRIO: And just took the exam to
 11 be high command?
 12 MR. SCELISO: It was offered, it was free
 13 and I took it. Never used it, never needed it.
 14 MR. DONOFRIO: All right. I'm just
 15 going to conclude, Mr. Scelso, I just want to ask
 16 you about your current Megan's Law registration
 17 requirement, you're no longer required to register
 18 under Megan's Law?
 19 MR. SCELISO: Correct.
 20 MR. DONOFRIO: That was just recently, I
 21 think as of --
 22 MR. SCELISO: Last week.
 23 MR. DONOFRIO: July this year, correct?
 24 MR. SCELISO: Correct.
 25 MR. DONOFRIO: And a major reason,

56

1 those marked for identification and submitted as
 2 part of the record. Is there any other
 3 documentation that you want the board to consider?
 4 MR. SCELISO: No.
 5 MR. DONOFRIO: Let me ask you about some
 6 of the documents that you did submit. You
 7 submitted a certification that I made reference to
 8 that you provided as part of your request to be
 9 eliminated from Megan's Law registration
 10 requirements, it's incomplete, we don't have the
 11 entire document. Do you have that document with
 12 you here today?
 13 MR. SCELISO: No, I don't.
 14 MR. DONOFRIO: Do you know why we're
 15 missing a page or pages?
 16 MR. SCELISO: No, I thought I went
 17 through it, I thought everything was there. I had
 18 no idea that there was a page or pages missing.
 19 MR. DONOFRIO: What is your attorney's
 20 name.
 21 MR. SCELISO: Edward Zeitz.
 22 MR. DONOFRIO: Okay. He would have it,
 23 I would imagine, right?
 24 MR. SCELISO: Yes, he would.
 25 MR. DONOFRIO: Okay. We're also missing

<p style="text-align: right;">57</p> <p>1 a page of the uniform defendant intake. Again, 2 where did you obtain the document from? 3 MR. SCELSON: Probably from my attorney. 4 MR. DONOFRIO: Okay. 5 MR. SCELSON: He has all that. 6 MR. DONOFRIO: Did he fax it to you? 7 Did you go there and he handed it to you? 8 MR. SCELSON: Mailed to me. 9 MR. DONOFRIO: He mailed it to you. And 10 there's also a legal memorandum that he provided 11 in support of your request to be removed from the 12 registration requirement, and it appears to be 13 incomplete, too. I think we're missing a page or 14 pages. 15 MR. SCELSON: I'm sorry about that. 16 MR. DONOFRIO: Okay. I just, you know, 17 want to know whether you're aware of that. But 18 you're not aware of that? 19 MR. SCELSON: Mrs. Baccile and I went 20 through quite a bit just to get these papers in 21 here. 22 MR. DONOFRIO: I understand. So, again, 23 any other reports or evaluations or letters of 24 recommendation that you wanted us to consider 25 because we'll give you or afford you that</p>	<p style="text-align: right;">58</p> <p>1 opportunity? 2 MR. SCELSON: No, not at this point. 3 MR. DONOFRIO: How about the termination 4 report from ADTC, do you have a copy of that? 5 MR. SCELSON: No, I do not have a copy of 6 that, my lawyer probably has it. 7 MR. DONOFRIO: Dr. Atkins does make 8 reference to some of the findings. And they are 9 somewhat favorable, I will certainly indicate that 10 for the record, too. But if you had the complete 11 document, it give us a better sense of -- 12 MR. SCELSON: I'm sorry. 13 MR. DONOFRIO: Okay. If we tried to 14 obtain that from the ADTC, would you consent to 15 that? 16 MR. SCELSON: Yes. 17 MR. DONOFRIO: That's all I have, Mr. 18 Chairman. 19 MR. MALONEY: Mr. Scelso, I have some. 20 But do any board members have anything? Tom? 21 MR. PITCHERELLO: The only question I 22 have is some of the testimony you gave today 23 conflicts with the information we have, did you 24 read what was submitted to us before -- 25 MR. SCELSON: No.</p>
<p style="text-align: right;">59</p> <p>1 MR. BARHAM: Thank you for coming in 2 today, we appreciate it. If you're retired, why 3 do you think you need this license? 4 MR. SCELSON: So I can train my grandson. 5 MR. BARHAM: Okay. 6 MR. SCELSON: And I enjoy work, I enjoy 7 HVAC immensely. 8 MR. BARHAM: Would it be your intention 9 to pursue the residential or commercial? You say 10 you liked the best. Because you didn't get a home 11 improvement license for the residential, would you 12 be doing both or focus on one or the other? 13 MR. SCELSON: I would probably do -- 14 concerned mostly with commercial. 15 MR. BARHAM: Okay. 16 MR. SCELSON: I like commercial, but if 17 residential, somebody asked, due to request, I 18 wouldn't advertise residential. 19 MR. BARHAM: All right. Basically the 20 doing condensers, making sure -- 21 MR. SCELSON: Trade in. 22 MR. BARHAM: And would it be your 23 intention to utilize MAHD, LLC, once again? 24 MR. SCELSON: Yes. 25 MR. BARHAM: Okay.</p>	<p style="text-align: right;">60</p> <p>1 MR. SCELSON: If it doesn't happen, I'll 2 just cancel the whole business. I just held onto 3 it until now. 4 MR. BARHAM: Okay. 5 MR. MALONEY: Mr. Scelso, before I ask 6 you to give a closing statement on your behalf, I 7 just want to ask you a question. You're here to 8 be licensed by this board? 9 MR. SCELSON: Correct. 10 MR. MALONEY: We're the people that are 11 going to license you or not license you? 12 MR. SCELSON: I understand. 13 MR. MALONEY: I got to be honest with 14 you, you're all over the board with your answers. 15 You don't recall, you don't remember. We've got 16 material that you provided us with that is totally 17 inconsistent to what you're saying. There's -- I 18 mean we're not even on the same page on some of 19 these things. 20 And yet you -- you're coming to this 21 board to be licensed. You're vague in your 22 answers, I don't recall. You must have said that 23 probably 30 times or I don't remember. You're 24 here to be licensed. I'm trying to get a grasp on 25 am I going to license you or not going to license</p>

61

1 you. I'm trying to be objective here. But,
2 again, you're all over the board. Do you have
3 anything in closing you want to say to the board?

4 MR. SCELSON: The past was not good to
5 me. I made amends, I changed my life, for what
6 that's worth to you guys. And I know I'm in your
7 hands. I tried as hard as I can to forget my past
8 and everything about it. Like I said to Mr.
9 Pitcherello, I did not read the information before
10 I submitted it. I just had my lawyer mail it over
11 to me and I just put in. Probably a mistake that
12 I made. It's done, it's over with. I'm in your
13 hands. That's all I can say.

14 MR. MALONEY: All right.

15 MR. SCELSON: I'm a new person.

16 MR. MALONEY: At this time, the board is
17 going to deliberate and you'll be notified by mail
18 of the findings of the board.

19 MR. DONOFRIO: The board will deliberate
20 as the Chairman indicated, Mr. Scelso, and you'll
21 be notified of its determination, okay, sir. Do
22 you have any other questions of us?

23 MR. SCELSON: Something that never came
24 up, all the time that I came out of Avenel until
25 the contractors licensing, I did residential and I

62

1 respected the people that I worked for. I never
2 put myself in a position to harm anybody and
3 nobody has ever made a complaint. I carried
4 myself very well. And that has to have some weight.

5 MR. DONOFRIO: Mr. Scelso, do you recall
6 when you appeared before the home improvement
7 board?

8 MR. SCELSON: You asked me that.

9 MR. DONOFRIO: Was there a court
10 reporter there, do you recall?

11 MR. SCELSON: Yes.

12 MR. DONOFRIO: There was. So there's a
13 transcript of your proceeding?

14 MR. SCELSON: I would imagine you have it
15 on file.

16 MR. DONOFRIO: Thank you, sir.

17 MR. MALONEY: Thank you.

18 (Application received and
19 marked S-1 for identification.)

20 (Order terminating Megan's Law
21 dated 7/28/14 received and marked
22 S-2 for identification.)

23 (Tier classification received
24 and marked S-3 for identification.)

25 (Registrant risk assessment

63

1 received and marked S-4 for
2 identification.)

3 (Registrant risk assessment
4 scale received and marked S-5 for
5 identification.)

6 (Judgment of conviction dated
7 3/18/94 received and marked S-6 for
8 identification.)

9 (Dr. McNeil's report dated
10 12/15/93 received and marked S-7 for
11 identification.)

12 (Presentence report received
13 and marked S-8 for identification.)

14 (Uniform defendant intake
15 received and marked S-9 for
16 identification.)

17 (Application to terminate
18 Megan's Law dated 9/27/13 received
19 and marked S-10 for identification.)

20 (Memorandum in support of
21 application received and marked S-11
22 for identification.)

23 (Two page document received and
24 marked S-12 for identification.)

25 (Certification of Michelle

64

1 Vockeroth received and marked S-13
2 for identification.)

3 (Dr. Joseph Linares's letter
4 dated 9/4/13 received and marked
5 S-14 for identification.)

6 (Jeff Bringham's letter dated
7 9/19/13 received and marked S-15 for
8 identification.)

9 (Robert Berry's letter dated
10 9/12/13 received and marked S-16 for
11 identification.)

12 (Merilee Waddell's letter received
13 and marked S-17 for identification.)

14 (Letter naming Mr. Scelso
15 Commander received and marked S-18
16 for identification.)

17 (Dr. Atkins's letter
18 dated 9/10/13 received and marked
19 S-19 for identification.)

20 (Whereupon the matter was concluded.)
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C E R T I F I C A T E

I HEREBY CERTIFY that the foregoing is a true and accurate transcript of the testimony and proceedings as taken stencographically by me at the time, place, and on the date hereinbefore set forth.

Susan Bischoff
SUSAN BISCHOFF, CCR, RPR
LICENSE NO. 30X100233700

DATED: August 29, 2014