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N.J. BOARD OF DENTISTRY  
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STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF DENTISTRY

In the Matter of	:	Administrative Action
	:	
ANTHONY MANCINO, D.M.D.	:	FINAL ORDER
License No.: 22DI 01132000	:	OF DISCIPLINE
	:	
Licensed To Practice Dentistry	:	
In the State of New Jersey	:	

This matter was opened to the New Jersey State Board of Dentistry upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusion of law are made:

FINDINGS OF FACT

1. On October 23, 2015, the Board issued its Final Decision and Order (“Order”) in “In the Matter of the Suspension or Revocation of the License of Anthony J. Mancino, D.M.D. to Practice Dentistry in New Jersey.

2. Under the terms of that Order, Respondent’s license was suspended for a period of three years, four months of which were served as an active suspension beginning November 1, 2015; he was directed to pay restitution of \$56,045 to the patient identified as S.C. and \$7,700 to the patient identified as J.B. not later than November 1, 2015. The Order further required respondent to pay civil penalties of \$80,000, and costs and attorney’s fees of \$85,000 within 18 months of the filing date of the order. The order also

imposed restrictions on Respondent's practice and required Respondent to retain a monitor for his practice.

3. In or about October 2015, Respondent filed a Notice of Appeal of the Board's Order. The Appellate Division of the Superior Court denied Respondent's application for an emergent stay on October 30, 2015, and for a non-emergent stay on December 2, 2015.

4. While the appeal was pending, Respondent asked the Board to modify its Order to reduce the assessed penalties, costs and fees. The Board notified Respondent's counsel that it lacked jurisdiction to modify the Order as it was the subject of a pending appeal.

5. On December 21, 2015, the State filed a Certificate of Debt for the penalties, fees, costs, and restitution due under the Final Decision and Order.

6. Because Respondent failed to pay the moneys due under the Board's order, the Attorney General, on January 12, 2016, moved before the Appellate Division seeking an order requiring Respondent to pay the restitution or in the alternative to post a *supersedeas* bond for the full amount due under the Board's order. The Court, by order dated January 28, 2016, directed Respondent to post a supersedeas bond in an amount sufficient to satisfy the judgment of the Board plus interest within fifteen days. If not posted, the Court invited the State to file a motion to dismiss the appeal.

7. On February 16, 2016, Respondent's counsel notified the Court of his intention to withdraw the appeal. The Court, by order dated February 19, 2016, dismissed the appeal.

8. Subsequent to the entry of the Order, J.B. settled a civil malpractice action against the Respondent and notified the Board that she would waive the restitution payment. The Board, at its meeting on February 17, 2016, agreed to modify the order to

reflect that restitution would be waived, but noted its findings related to J.B.'s treatment would stand.

9. Following the dismissal of the appeal, Respondent, asked the Board to modify its order and reduce the penalties, costs, and fees claiming that he lacked the resources to pay and providing some information regarding the estimated value of his home and the equity in it. He offered a compromise for a lesser assessment of penalties, costs, and fees, and asked that he pay it over a longer period of time. The Attorney General, by letter from the deputy who prosecuted the underlying matter, objected to any revision of the Board's order. Further, based on Respondent's failure to comply with the terms of that order, she sought an order from the Board activating the stayed portion of the suspension and requiring Respondent to post a supersedeas bond for the amounts owed under the order.

10. At its meeting on June 15, 2016, the Board reviewed the letters from Respondent and the Deputy Attorney General. The Board, noting that it had already substantially reduced the penalties, costs, and attorney fees from that recommended in the Initial Decision, denied Respondent's request to reduce the moneys due under the order. The Board, although noting an apparent violation of its Order, declined to grant the Attorney General's request to activate the stayed portion of the suspension and to order the Respondent to post a bond.

11. As of July 11, 2016, Respondent had submitted partial payments toward restitution owed to S.C. totaling \$18,000, leaving a restitution balance of \$38,045. No payment plan for the amount due under the Order has been received and no payments have been made toward the \$165,000 in penalties, costs, and fees.

12. On July 12, 2016, a Provisional Order of Discipline (“POD”) was entered, provisionally imposing a sanction of \$10,000.00 if full restitution to S.C. was not made by August 15, 2016. The POD also provisionally imposed an additional sanction of \$500.00 per week if Respondent fails to submit a payment plan for satisfaction of unpaid penalties, fees, and costs associated with the Board’s October 23, 2015 Final Decision and Order by August 15, 2016. The POD was subject to finalization by the Board on the 30<sup>th</sup> day following entry unless Respondent requested a modification or dismissal of the Findings of Fact or Conclusions of Law.

13. Respondent’s counsel submitted a response and certification from Respondent on August 12, 2016, objecting to the financial sanction provisionally imposed by the Board. Respondent argued that he did fulfill the active suspension required under the Final Order and that he has faced difficulties in operating his practice upon return to work in March 2016, such as his responsibilities to maintain a full-time practice while only working one or two days per week and the challenges he has faced in rebuilding his dental practice. Respondent also certified that he has made multiple efforts to borrow the necessary money so that he can fulfil his financial obligation under the Order; however, he has been unsuccessful due to his current financial situation. Respondent highlighted that he has made some restitution payments to S.C totaling \$25,000.00 and intends to pay the full amount of restitution to S.C. and further requests the Board approve a payment plan where it makes it possible for him to meet the financial obligation. Finally, Respondent requested that the Board, in an effort to resolve the matter, consider modifying the amount of money he owes under the Final Order from \$165,000.00 to \$80,000.00, which is the amount of

equity remaining in his home. He did not contest the allegation that he has failed to comply with the Board's October 23, 2015 Final Order.

14. By letter dated August 31, 2016, the Attorney General advised the Board that since Respondent's certification was submitted, he has made full restitution to S.C. However, the Attorney General further argued that Respondent still had not offered a payment plan addressing how he intend to fulfill his remaining financial obligation under the Order. Finally, the Attorney General urged the Board to reject Respondent's recent settlement offer as the Board had already reduced the amount of penalties, fees, and costs recommended by the Administrative Law Judge in his Initial Decision.

15. On September 6, 2016, counsel for Respondent advised that Respondent proposed a new settlement offer of \$70,000.00 payable in 36 months. Respondent claims he is unable to utilize the \$80,000 of equity in his home.

#### **Discussion and Conclusions of Law**

At the September 7, 2016, meeting, the Board considered the Provisional Order of Discipline, Respondent's submissions dated August 12, 2016, and September 6, 2016, and the Attorney General's reply dated August 31, 2016. At the onset, the Board found that no material discrepancies were raised with respect to the findings and conclusions of the POD regarding Respondent's failure to comply with the Board order, and therefore, no further proceedings are necessary.

While the Board found that Respondent did not make full restitution to S.C. until August 30, 2016, the Board is satisfied that Respondent has fully paid S.C. and declines to

impose a sanction for failing to pay the restitution by August 15, 2016, as provisionally sought in the POD.

The Board considered Respondent's request for a reduction in the amount of penalties, fees, and costs from \$165,000 to \$70,000 payable over three years. The Board once again notes that it had already substantially reduced the penalties, fees, and costs from that recommended in the Initial Decision following its consideration of his financial resources in September 2015 during the hearing on mitigation of sanction to be imposed following the Board's review of the Initial Decision. The Board does not find that the additional information presented by Respondent warrants modification of penalties, fees, and costs. Therefore, Respondent's request for a reduction in the amount he owes is denied.

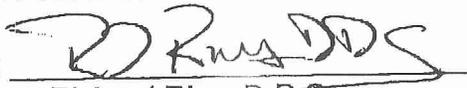
The Board does find Respondent in violation of its October 23, 2015, as he had failed to advise the Board of his proposed payment plan for the costs and penalties until September 6, 2016. However, the Board declines to further sanction Respondent at this time as the Board is mindful of Respondent's financial situation and therefore will permit Respondent to pay the \$165,000 in equal payments of \$2750.00 per month continuing over the course of five years beginning on October 1, 2016. In the event that Respondent fails to pay any monthly installment by the 15<sup>th</sup> day of the month, the Board will immediately sanction Respondent \$500.00 per month for each month that he fails to submit timely payment.

ACCORDINGLY, it is on this day 28<sup>th</sup> day of September, 2016  
ORDERED that:

1. Respondent, Dr. Anthony Mancino, shall immediately submit payment of costs, fees, and penalties totaling \$165,000.00 by bank check, money order, certified check or wire transfer. In the alternative, Respondent shall be permitted to make monthly payments of \$2,750.00 due on the first of every month for the next five years until the entire balance is paid. The payment must be made payable to the State of New Jersey and shall be sent to Jonathan Eisenmenger, Executive Director, P.O. Box 45005, 124 Halsey Street, Sixth Floor, Newark, New Jersey 07101. If a form of payment is presented other than the approved forms noted above, it will be rejected and returned to the party making payment with a reminder regarding the forms of approved payment. Respondent's first payment is due no later than October 1, 2016 and additional payments will be made on the first of the month or on the first business day following the first of the month.

2. Failure to remit the appropriate payment pursuant to this Order by the 15<sup>th</sup> of any month will result in an additional sanction of \$500.00 for each month that he fails to submit payment and shall constitute a violation of the Consent Order. The Board reserves the right to take further disciplinary action if Respondent fails to make timely payments or otherwise violates the Final Order of Discipline.

NEW JERSEY STATE BOARD OF DENTISTRY

By:   
Richard Riva, D.D.S.  
Board President