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IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST

THEOPHILUS E. GREEN, PSYD

FINAL DECISION AND ORDER

RESPONDENT

Case No. LS9907131PSY

PARTIES

The parties to this action for the purposes of § 227.53, Wis. Stats., are:

*Mr. John R. Zwieg
Department of Regulation & Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935*

*Theophilus E. Green
225 W. Washington Street
Suite 2200
Chicago, IL 60606*

PROCEDURAL HISTORY

A hearing in the above-captioned matter was held on August 18, 1999, before Administrative Law Judge William A. Black. The Division of Enforcement appeared by Attorney John R. Zwieg. The Respondent, Theophilus E. Green, did not appear.

Based on the entire record of this case, the undersigned administrative law judge recommends that the Psychology Examining Board adopt as its final decision in this matter, the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Theophilus E. Green, Psy.D., Respondent, date of birth September 2, 1945, is licensed by the Wisconsin Psychology Examining Board as a psychologist in the state of Wisconsin, pursuant to certificate number 1250, which was first granted October 10, 1986.
2. Respondent's last address reported to the Department of Regulation and Licensing is 225 W. Washington Street, Suite 2200, Chicago, IL 60606.
3. On February 21, 1990, Respondent was issued Certificate of Registration, License No. 071-004091 to engage in the practice of clinical psychology in the state of Illinois.
4. In June of 1982, Respondent formed a Psychological Partnership named "Associated Psychological Services" (APS), and then in November of 1984, a not-for-profit corporation under the same name. Respondent practiced psychology for 8 years as "an employee" of this corporation of which he was an officer and a member of the board of directors.
5. APS was registered as a Psychological Partnership pursuant to the Illinois Psychologist Registration Act on June 30, 1982 and was assigned registration number 073-41.

6. On September 28, 1998, the Director of the Illinois Department of Professional Regulation issued an Order Denying Motion for Rehearing and taking disciplinary action against Respondent's license to engage in the practice of clinical psychology in the state of Illinois. The Director adopted the Findings of Fact, Conclusions of Law and Recommendation to the Director made by the Clinical Psychologists Licensing and Disciplinary Committee on December 5, 1997, following a hearing on the allegations which was attended by Respondent.
7. As discipline against Respondent, the Illinois Department of Professional Regulation ordered:
 - a. That Respondent be reprimanded for his conduct.
 - b. That Respondent's Certificate of Registration to engage in the practice of Clinical Psychology in the state of Illinois be indefinitely suspended for a minimum period of two (2) years.
 - c. That Respondent pay a fine in the amount of \$8,000, representing \$1,000 for each year of Respondent's unlicensed practice of clinical psychology in Illinois.
 - d. That a permanent restriction be placed on Respondent's license to practice as a Clinical Psychologist, barring him from acting as a supervisor to prospective licensees. The Department will not accept Respondent as a supervisor to verify experience on any future application from any prospective licensee.
 - e. That Respondent shall be required, as part of any Petition for Restoration, to submit evidence that he has been rehabilitated so as to warrant the public trust to practice as a Clinical Psychologist in Illinois. Factors to be considered include, but are not limited to:
 - 1) Payment of the fine.
 - 2) Evidence that Respondent has attended psychological counseling to deal with adverse feelings to others in his profession.
 - 3) Evidence that Respondent has participated in 24 hours of continuing education on ethics and other appropriate subjects as approved by the Board in advance.
 - f. That if Respondent is successful in a Petition for Restoration, his license should be restored to probation for a minimum of six (6) years, during which time he will submit on a semi-annual basis written reports to the Board on his practice and activities in the profession. Respondent must be supervised by a licensed Clinical Psychologist approved by the Board in advance annually.
8. During the eight months following the Illinois discipline and prior to being advised that the Wisconsin Board was aware of the Illinois discipline, Respondent had not advised the Wisconsin Psychology Examining Board of the discipline imposed by the Illinois Department of Professional Regulation, as is required by Wis. Adm. Code § PSY 5.01(29).
9. Respondent signed verifications for Allen Piening, of employment/experience (VE-Psy forms) on or about June 30, 1988 as part of Piening's application in Illinois for licensure as a clinical psychologist, and these verifications were intended to show Piening met the supervision qualifications for licensure.
10. Respondent entered or caused to be entered on this form, under penalty of perjury, certain statements which were not true concerning his licensure number in Illinois, the period of supervision of Piening the date of Respondent's degree in 1982, the "excellent" rating of supervision, and Respondent's licensure in Illinois as a clinical psychologist.
11. Respondent stated on the form that he had a professional association with the Center for Individualized Rehabilitation in Hoffman Estates from 1983 to 1986, which Center was operated by Piening, but no such professional association had ever existed.
12. Respondent stated on the form that he supervised Piening for six hours per week from 1983 to 1986, and Piening represented that Raymond J. Pellicore, M.D., was his supervisor for the same time period, but Respondent did not perform the supervision specified.
13. Respondent entered the license number 73-041 on Piening's application form when it requested his professional license number, but that number was actually the registration number for APS.
14. Respondent did not provide clinical psychological supervision for Piening in 1989 and had no professional basis upon which to make a rating of "excellent" in his evaluation of Piening.
15. Respondent caused to be submitted to the Iowa Department of Public Health, Board of Psychology Examiners, a "Supervision Registration Form and Supervision Form" on behalf of Piening for Piening's application for licensure as a clinical psychologist.

16. Respondent claimed in the Supervision Form that on or about July 13, 1989 he was a supervising psychologist for Piening and was licensed in Illinois and Wisconsin.
17. On the Supervision Registration Form, Respondent used as his psychologist licensure number the license number in Illinois of 73-041 which was actually the registration number for APS.
18. Respondent did not supervise Piening during that time period, and was not licensed in Illinois as a clinical psychologist at that time.
19. These forms were intended to show Piening met the supervision requirements for licensure in Iowa.
20. In 1987, Piening applied for licensure as a psychologist in Wisconsin. As part of Piening's application process, Respondent submitted to the Wisconsin Department of Regulation and Licensing a form entitled "Supervised Psychological Experience", which the Wisconsin Department of Regulation and Licensing received on March 3, 1987, signed by Respondent.
21. The Supervised Psychological Experience form contained information showing Respondent provided supervision to Piening for 35 to 45 hours per week at the Center for Individualized Rehabilitation in Hoffman Estates for the period of March 1983 to December 1986 and had no reservations about Piening's capabilities. Respondent also stated he was a licensed psychologist in Wisconsin, but nothing is stated about licensure in Illinois.
22. On October 23, 1987, the Wisconsin Psychology Examining Board wrote to Respondent stating it had difficulty interpreting the information Respondent sent regarding Piening's application, and requested more information.
23. On November 13, 1987, Piening responded to the Wisconsin authority stating: "It appears that we are experiencing difficulty obtaining necessary documentation from Dr. Green regarding some of my past doctoral supervision." Piening requested that it substitute supervision received from another psychologist subsequent to 1986 to "back up the documentation you have already received from [Respondent] to complete the requirements . . ."
24. Respondent had no professional association with the Center for Individualized Rehabilitation in Hoffman Estates from 1983 to 1986 and did not provide the clinical supervision of Piening stated in the Wisconsin Supervised Psychological Experience form.
25. At the hearing of this matter Complainant's attorney submitted an affidavit entered into evidence as Exhibit 1. The affidavit sets forth the substance of a telephone message left on Complainant's attorney's voice mail at approximately 8:30 p.m. of the night before the hearing of this matter. A person purporting to be the Respondent stated that he would be unable to attend the "meeting" scheduled for 9:00 a.m. on August 18, 1999. A 90-day continuance was requested. The Respondent did not state any facts as to why a continuance should be granted, or why the Respondent failed to file an answer. The Respondent requested that Complainant's attorney contact Respondent's attorney to coordinate seeking a continuance. The Respondent's attorney has not contacted Complainant's attorney regarding this matter.
26. The Respondent was served according to statute.

CONCLUSIONS OF LAW

1. The Psychology Examining Board has jurisdiction in this matter pursuant to s. 455.09, Stats.
2. By failing to file an Answer as required by Wis. Admin. Code § RL 2.09 (1999), and by failing to appear at the hearing, Mr. Green is in default under Wis. Admin. Code § RL 2.14 (1999), and the Psychology Examining Board may make findings and enter an order on the basis of the Complaint and the evidence presented at the hearing.
3. By failing to notify the Board of the disciplinary action taken by the Illinois Department of Professional Regulation against his Certificate of Registration to practice clinical psychology in the State of Illinois, Green has committed unprofessional conduct as defined in Wis. Admin. Code § Psy 5.01 (29) (1999).
4. By reporting distorted, erroneous, and/or misleading psychological information, Green has committed unprofessional conduct as defined in Wis. Admin. Code § Psy 3.02 (7) (1989).
5. By reporting distorted, erroneous, and/or misleading psychological information, Green has used fraud or deception in the application for a license, and has committed unprofessional conduct as defined in

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the license of Theophilus E. Green to practice psychology in the State of Wisconsin and any existing right to renew it are **REVOKED**.

IT IS FURTHER ORDERED that, pursuant to sec. 440.22, the costs of this proceeding are assessed against the respondent.

EXPLANATION OF VARIANCE

The Psychology Examining Board has accepted the ALJ's Findings of Fact, Conclusions of Law and Order in their entirety. The Proposed Decision did not address the issue of assessment of costs, however, and the board has determined that pursuant to the authority granted by sec. 440.22, Stats., the costs of this proceeding should be assessed against the respondent. The Order has thus been supplemented to include the assessment of those costs.

The Notice of Filing Proposed Decision in this matter dated August 31, 1999, established that any objections to the Proposed decision were required to be received in the board office on or before September 13, 1999. Various letters submitted by respondent objecting to the proceedings herein were both mailed and received subsequent to that date, and were therefore not timely.

Dated this 13th day of October, 1999.

STATE OF WISCONSIN

PSYCHOLOGY EXAMINING BOARD

by _____

Stephen F. Seaman, Ph.D.

Chairman