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STATE OF WISCONSIN
BEFORE THE PROFESSIONAL COUNSELOR SECTION
EXAMINING BOARD OF SOCIAL WORKERS,
MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST :
9810012 CPC
MICHAEL J. ROLLER, C.P.C.,
RESPONDENT.

LS

FINAL DECISION AND ORDER

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

Michael J. Roller
2132 W. Howard Avenue
Milwaukee, WI 53221

Professional Counselor Section
Wisconsin Examining Board of Social Workers,
Marriage & Family Therapists and Professional Counselors
PO Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
PO Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision in this matter, subject to the approval of the Section. The Section has reviewed this Stipulation and considers it acceptable.

Accordingly, the Section in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Michael J. Roller, Respondent, date of birth July 7, 1943, is certified as a professional counselor in the State of Wisconsin pursuant to certificate number 498, which was first granted August 6, 1993.
2. Respondent received a masters of education degree, with a major in guidance and counseling, from Marquette University in 1975. Respondent received his certification through the non-statutory provisions of 1991 Wisconsin Act 160 [§21(2)(f)], and was not required to take and pass an examination for certification.
3. Respondent's last address reported to the Department of Regulation and Licensing is 2132 West Howard Avenue, Milwaukee, WI 53221.

COUNT I

4. On February 18, 1969, Respondent was charged, and pled guilty, in Milwaukee, Wisconsin, County Court Case No. 2-86864, with violating § 947.15(1)(a), Stats. (1969), Contributing to the Delinquency of a Child, a misdemeanor criminal offense, for having engaged in indecent acts with a fourteen year old boy on February 15, 1969.
5. On February 18, 1969, in Milwaukee, Wisconsin, County Court Case No. 2-86864, based upon his plea of guilty, Respondent was convicted of Contributing to the Delinquency of a Child and was placed on two years of probation. The Court withheld imposing sentence and placed Respondent on two years of probation. On May 22, 1970, Respondent was discharged from probation.
6. At the time of the sexual contact with the 14 year old boy, Respondent was employed as a bachelors level

social worker performing intake services for the Child Welfare Division of Milwaukee County. The boy was not a client of Respondent. § 947.15(1)(a), Stats. (1969), Contributing to the Delinquency of a Child, is a law substantially related to the practice of professional counseling.

7. When Respondent was first interviewed by the Department of Regulation and Licensing, Division of Enforcement (DOE) about this conviction, Respondent said that the boy was 16 years of age. During that interview, Respondent also said that he had allowed the boy to stay with him, but that he had not had sexual contact with the boy. Respondent said that the boy had told the police they had sexual contact and that resulted in the charge.

8. When Respondent was interviewed by DOE on October 9, 1998, after the complaint in this matter had been served on Respondent, Respondent admitted the boy was 14 years of age and admitted they had sexual contact by manual manipulation.

COUNT II

9. On May 6, 1993, Respondent completed and signed an application for a certificate as a professional counselor in the state of Wisconsin. Respondent sent that application to the Wisconsin Department of Regulation and Licensing, Bureau of Health Service Professions, which processes applications for certification on behalf of the Professional Counselor Section of the Wisconsin Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors.

10. Question number 13.h. on the application for certification as a professional counselor in the state of Wisconsin asked whether Respondent had ever been convicted of a misdemeanor or felony. Respondent answered "No" to that question.

11. The Professional Counselor Section granted Respondent a certificate as a professional counselor based upon Respondent's false and deceptive answer on the May 6, 1993 application.

12. When Respondent was interviewed by DOE on October 9, 1998, Respondent was asked why he did not include information about the conviction when he completed his application. Respondent stated:

- a. That at the time he was completing the application, he had a Criminal Investigation Bureau check performed regarding himself and that check did not show the conviction.
- b. He thought that because the Criminal Investigation Bureau check did not show the conviction, the Section would not find out about the conviction and the false statement would not be discovered.

COUNT III

13. In approximately 1988, Respondent first met Mr. L, a developmentally disabled boy who was then about 13 years of age. Respondent owned a condominium adjacent to Mr. L's father's condominium and developed a personal nonprofessional relationship with Mr. L when Mr. L visited his father on weekends and during the summer months.

14. In 1994, Mr. L, who was then nineteen years of age, held the diagnoses of dysthymic disorder and gender identity crisis. At that time, he also had a history of being sexually assaulted by men and attended weekly counseling sessions with a social worker of an adult foster care program to deal with issues resulting from that history.

15. In December of 1993, Mr. L had become addicted to 900 telephone number sex lines and had incurred thousands of dollars in charges with those numbers. The women he talked with on the sex lines requested nude photographs of Mr. L. Mr. L explained this to Respondent and asked Respondent to take such photos of Mr. L. Respondent took nude photographs of Mr. L, including photos which showed Mr. L's genitalia.

16. When Respondent was interviewed by DOE regarding the photographs, he admitted taking photos of Mr. L, but contended that Mr. L was not nude in any of the photos. When the DOE investigator confronted Respondent with the photographs showing Mr. L's genitalia, Respondent admitted that he took the nude photos.

17. Mr. L also called a telephone service which allow people to meet one another. One of the women Mr. L met through that service asked Mr. L to visit her in New Jersey. Mr. L did not have money for transportation to New Jersey. Respondent had promised to pay for Mr. L to take a trip on his 21st birthday, but at Mr. L's request, Respondent gave Mr. L approximately \$150.00 to pay for Mr. L's round trip train ticket to New Jersey, in lieu of a birthday trip.

18. On occasions over the course of their relationship, Respondent gave Mr. L small gifts and money. Respondent would occasionally invite Mr. L to movie parties Respondent held at Respondent's home. The movies shown at these parties included "X-rated" movies. Mr. L occasionally spent the night at Respondent's home.

19. In January of 1994, Mr. L asked Respondent to become the designated payee for Mr. L's monthly social

security income (SSI) benefits. Respondent told Mr. L's case worker that Respondent would become the designated payee. However, the case worker had concerns about Respondent becoming the designated payee and Milwaukee County Department of Health and Human Services remained Mr. L's designated payee.

20. Respondent's conduct, as set out in this count of this complaint, fell below the minimal standards of the profession.

COUNT IV

21. At all times relevant, the legal minimum age for drinking alcohol beverages in Wisconsin was 21 years of age, pursuant to § 125.02 (8m), Stats.

22. On occasions at Respondent's home in Wisconsin, Respondent provided wine and beer to Mr. L, who was below the legal age of drinking. No guardian or parent of Mr. L was present at those times.

23. Respondent's conduct was in violation of § 125.07(1)(a)1, Stats. (1994), which states that "no person may give away any alcohol beverages to any underage person not accompanied by his/her parent, guardian or spouse who has attained the legal drinking age."

24. Respondent's conduct was also in violation of § 125.07(1)(a)3, Stats. (1994), which states that "no adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on the premises owned by the adult or under the adult's control."

25. §§ 125.07(1)(a)1 and 125.07(1)(a)3, Stats. (1994), are laws substantially related to the practice of professional counseling.

CONCLUSIONS OF LAW

1. The Professional Counselor Section of the Wisconsin Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors has jurisdiction over this matter pursuant to § 457.26(2), Stats.

2. The Professional Counselor Section of the Wisconsin Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors has authority to enter into this stipulated resolution of this matter pursuant to § 227.44(5), Stats.

3. Respondent, having violated § 947.15(1)(a), Stats. (1969), Contributing to the Delinquency of a Child, and having been convicted of that offense, is subject to discipline by the Professional Counselor Section, pursuant to § 457.26(2)(b), Stats. and Wisconsin Administrative Code § SFC 20.02(2), for having been convicted of a crime which relates to practice under his certificate.

4. Respondent, having provided a fraudulent and deceptive answer to the professional counselor application question asking whether he had ever been convicted of a misdemeanor or felony, is subject to discipline by the Professional Counselor Section, pursuant to § 457.26(2)(a), Stats. and Wisconsin Administrative Code § SFC 20.02(4) for having used fraud and deception in his application for certification.

5. Respondent, having engaged in the conduct set out in Count III, above, is subject to discipline by the Professional Counselor Section, pursuant to § 457.26(2)(f) and (g), Stats. and Wisconsin Administrative Code § SFC 20.02.

6. Respondent, having violated §§ 125.07(1)(a)1 and 125.07(1)(a)3, Stats. (1994), state laws the circumstances of which substantially relate to the practice under Respondent's credential, is subject to discipline by the Professional Counselor Section, pursuant to

§ 457.26(2)(f), Stats. and Wisconsin Administrative Code § SFC 20.02(2).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. That the surrender by Michael J. Roller of his certificate as a professional counselor in the State of Wisconsin is hereby accepted, effective immediately.

2. That for two years from the date of this order, Respondent shall not apply for any certification from the Wisconsin Professional Counselor Section.

3. That if, after two years from the date of this order, Respondent applies for any certification from the Wisconsin Professional Counselor Section:

a. He shall be required to meet all requirements for that certification which are then required by statute and administrative rule, prior to being certified.

b. The decision whether to grant Respondent certification, with or without limitations, shall be in the sole discretion of the Section.

The rights of a party aggrieved by this Decision to petition the Section for rehearing and to petition for judicial review are set forth on the attached "Notice of Appeal Information".

Dated at Madison, Wisconsin this 10th day of December, 1998.

Colleen James
Chairperson

Professional Counselor Section

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