

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

THEODIS SMITH JR.,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
: **0003363**
:

Division of Legal Services and Compliance Case No. 14 RSA 017

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

Theodis Smith Jr.
6301 N. 84th St.
Milwaukee, WI 53225

Wisconsin Department of Safety and Professional Services
P.O. Box 8368
Madison, WI 53708-8368

Division of Legal Services and Compliance
Wisconsin Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Wisconsin Department of Safety and Professional Services (Department). The Department has reviewed this Stipulation and considers it acceptable.

Accordingly, the Department adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Theodis Smith Jr., (DOB November 21, 1970) is certified in the state of Wisconsin to practice as a substance abuse counselor-in-training, having certification number 16898-130, first granted on May 14, 2013 and current through February 28, 2015. Respondent's most recent address on file with the Department is 6301 North 84th Street, Milwaukee, Wisconsin 53225.

2. At all times relevant to this proceeding, Respondent was employed as a substance abuse counselor-in-training at a clinic located in Milwaukee, Wisconsin.

3. Between approximately October 2013 and March 2014, Respondent provided substance abuse counseling to Client A.

4. Between approximately October 2013 and March 2014, Respondent engaged in a sexual relationship with Client A.

5. Respondent emphatically denies the allegations. However, in resolution of this matter, and to avoid costs associated with litigation, Respondent consents to entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Department of Safety and Professional Services has jurisdiction to act in this matter pursuant to Wis. Stat. § 440.88, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Respondent Theodis Smith Jr., engaged in unprofessional conduct as defined in Wis. Admin. Code § SPS 164.01(2)(m).

3. As a result of the violations noted in the Conclusions of Law, Respondent Theodis Smith Jr., is subject to discipline pursuant to Wis. Stat. § 440.88(6).

ORDER

1. The attached Stipulation is accepted.

2. The VOLUNTARY SURRENDER of the certificate to practice as a substance abuse counselor-in-training in the state of Wisconsin issued to Theodis Smith Jr., is accepted.

3. This surrender constitutes the permanent relinquishment of Respondent's credential to practice as a substance abuse counselor-in-training in Wisconsin. The Department will not at any time in the future consider an application by Respondent to practice as a substance abuse counselor-in-training in Wisconsin.


4. Respondent shall immediately return all indicia of certification to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

5. Respondent may not practice as a substance abuse counselor or a substance abuse counselor-in-training in the state of Wisconsin, nor may he, in the state of Wisconsin, hold himself out as an addiction counselor, substance abuse counselor, substance abuse counselor-in-training, alcohol and drug counselor, substance use disorder counselor or chemical dependency counselor.

6. This Order is effective on the date of its signing.

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

By: 
Michael J. Berndt, Chief Counsel
On Behalf of the Department

9/10/14
Date

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

THEODIS SMITH JR,
RESPONDENT.

:
:
: STIPULATION
:
: **0003363**
:

Division of Legal Services and Compliance Case No. 14 RSA 017

Respondent Theodis Smith Jr., and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
- the right to petition for rehearing; and
- all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Department of Safety and Professional Services (Department). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Department's Order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Department, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the


Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Department, the parties agree not to contend that the Department has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance may appear before the Department, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that the Department may have in connection with deliberations on the Stipulation.

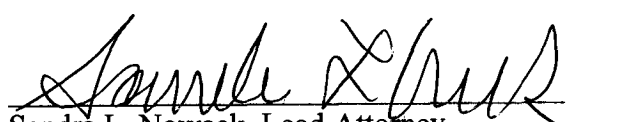
8. Respondent is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order would constitute an agency finding within the meaning of Wis. Stats. §§ 48.685 and 50.065. Should Respondent wish to work in a Wisconsin DHS-licensed facility in any role, Respondent will need to pass a Rehabilitation Review through DHS prior to commencement of such employment.

7. Respondent is informed that should the Department adopt this Stipulation, the Department's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Legal Services and Compliance joins Respondent in recommending that the Department adopt this Stipulation and issue the attached Final Decision and Order.


Theodis Smith Jr., Respondent
6301 N. 84th St.
Milwaukee, WI 53225
Credential no. 16898-130

9/2/14
Date


Sandra L. Nowack, Lead Attorney
State Bar Number 1025643
Department of Safety and Professional Services
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P.O. Box 7190
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9/10/14
Date