

IN THE MATTER OF

JOSEPH L. LEE

Applicant

* BEFORE THE MARYLAND STATE

* BOARD OF PROFESSIONAL

* COUNSELORS AND THERAPISTS

*

* Case Number: 2011-67

* * * * *

FINAL ORDER

On June 21, 2013, the Maryland State Board of Professional Counselors and Therapists (the "Board") notified **JOSEPH L. LEE** (the "Applicant") (D.O.B. 11/14/1946), of the Board's intent to deny his "Application for Licensed Graduate Professional Counselor" (the "Application"), dated 10/19/2010, under the Maryland Professional Counselors and Therapists Act (the "Act"), codified at Md. Health Occ. Code Ann. ("H.O.") §§ 17-101 *et seq.* (2009 Repl. Vol.). Specifically, the Board based its intent to deny on the following provisions of the Act:

§ 17-509. Denial, probation, suspension or revocation of certificate applicant or holder.

Subject to the hearing provisions of § 17-511 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license or certificate to any applicant, place any licensee or certificate holder on probation, reprimand any licensee or certificate holder, or suspend or revoke a license of any licensee or a certificate of any certificate holder if the applicant, licensee, or certificate holder:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license or certificate for the applicant, licensee, or certificate holder or for another;

...

(10) Is convicted of or pleads guilty or nolo contendere to a felony or a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

§ 17-309. Supervised clinical practice.

(b) Qualifications -- In general. -- To qualify to practice as a licensed graduate alcohol and drug counselor, a licensed graduate marriage and family therapist, or a licensed graduate professional counselor, an individual shall be:

(1) Of good moral character.

FINDINGS OF FACT

The Board makes the following Findings of Fact:

1. The Board received the Applicant's Application on or about May 4, 2011. Question (d) of the Application asked, "Have you pled guilty, *nolo contendere*, or been convicted of or received probation before judgment [f]or any criminal act (excluding minor traffic violations)?"
2. The Applicant answered "yes" to this question.
3. The following question directed the Applicant to explain all relevant criminal history: "If 'yes' provide the following information: Date of Conviction, Where convicted, Charge."
4. The Applicant's answer stated only that he had been charged with "Petty theft" in Baltimore in June, 1972. He offered no indication that he had any other criminal history. **(A copy of the Applicant's Application is attached hereto and incorporated herein as Ex. 1.)**
5. Based upon the Applicant's affirmative response, a Board investigator

performed a search on the Maryland Judiciary Case Search.¹ The search revealed that the Applicant had the following criminal history that he failed to disclose on his Application:

- a) a March 26, 2004 Probation Before Judgment for "Counterfeit TM/Under \$1000" (in violation of Md. Criminal Law Code Ann. § 8-611(d));
- b) a September 23, 2008 conviction for "Recording, Selling, Etc." (in violation of Md. Criminal Law Code Ann. § 7-308(d)(i) and (ii); and
- c) a November 12, 2008 conviction "Counterfeit TM/Under \$1000" (his second violation of Md. Criminal Law Code Ann. § 8-611(d)).

(A copy of the Applicant's relevant criminal history from the Maryland Judiciary Case Search is attached hereto and incorporated herein as Ex. 2.)

6. On or about December 5, 2011, in a conversation with a Board investigator, the Applicant said he forgot to include this criminal history on his application. He explained that the prior charges stemmed from his selling CDs in order to make money for his family. The investigator then invited the Applicant to submit a written explanation to the Board, but to date, the Board has not received a written explanation from the Applicant.

¹ Case Search provides Internet access to information from Maryland case records as described in the Maryland Rules on Access to Court Records (Rules 16-1001 through 16-1011). This information includes names of parties, city and state, case number, date of birth, trial date, charge, and case disposition. Case Search includes detailed case information for all Maryland Circuit and District Court Case Management Systems.

7. In furtherance of the investigation, certified court records documenting the Applicant's criminal history were obtained from the District Court of Maryland for Baltimore City. The records received in response revealed the following:

- a) On March 26, 2004, in case number 2B01582471, the Applicant received Probation Before Judgment with one year supervised probation for "Counterfeit TM/Under \$1000," in violation of Md. Criminal Law Code Ann. § 8-611(d).² **(A certified copy of the docket entry in district court case number 2B01582471 is attached hereto and incorporated herein as Ex. 3.)**

- b) On September 23, 2008, in case number 4B01976335, the Applicant was convicted of "Recording: Sell, Etc.," in violation of Md. Criminal Law Code Ann. § 7-308(d)(i) and (ii). He received a \$1000 fine, and a 100 day suspended sentence, with six months probation.³ The accompanying Statement of Charges details that the Applicant "willfully did...offer for sale and sell and possess with the intent to sell and distribute an item and service, to wit: VARIOUS CD'S AND DVD'S, having a value of \$1000.00 and more, knowing the said item and service to be bearing and identified by a counterfeit mark." **(A certified copy of the district court docket entry, the Statement of Charges and the Statement of Probable Cause is attached hereto and incorporated herein as Ex. 4.)**

² In this case, there were two (2) charges. The Applicant received Probation Before Judgment on charge 001. (The second charge resulted in a disposition of *nolle prosequi*.)

³ In this case, there were five (5) charges. The Applicant was found guilty and convicted on charge 003. (The other charges resulted in dispositions of *nolle prosequi*.)

- c) On November 12, 2008, in case number 3B01980793, the Applicant was convicted of a second offense of "Counterfeit TM/Under \$1000," in violation of Md. Criminal Law Code Ann. § 8-611(d). According to the Statement of Charges, the Respondent "did unlawfully possess a large amount of counterfeit DVD's and CD's with the intent to distribute same." He received a suspended sentence of 18 months, with 18 months probation.⁴ **(A certified copy of the district court docket entry and the Statement of Charges is attached hereto and incorporated herein as Ex. 5.)**

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board comes to the following conclusions as a matter of law.

The Respondent's failure to disclose his full criminal history on his Application constitutes, in whole or in part, a violation of H.O. § 17-509(1): fraudulently or deceptively obtaining or attempting to obtain a license.

In addition, the Applicant's September 23, 2008, conviction for violating Md. Criminal Law Code Ann. § 7-308(d)(i) and (ii), and his November 12, 2008, conviction for violating Md. Criminal Law Code Ann. § 8-611(d) constitute a violation of H.O. § 17-509(10): conviction for crimes involving moral turpitude.

Finally, the Applicant's fraudulent attempt to obtain a license and his convictions of crimes involving moral turpitude demonstrate a lack of good moral character, which is

⁴ In this case, there were six (6) charges. The Applicant was found guilty and convicted on charge 002. (The other charges resulted in dispositions of *nolle prosequi*.)

required under H.O. §§ 17-309(1) for licensure as a Licensed Graduate Professional Counselor in Maryland.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 21st day of June, 2013, by a majority of the Board considering this case:

ORDERED that the Applicant's Application for a Licensed Graduate Professional Counselor license in the State of Maryland is hereby **DENIED**; and it is further

ORDERED that this is a Final Order and as such is a **PUBLIC** document pursuant to Md. State Gov't Code Ann. §§ 10-611 *et seq.* (2009 Repl. Vol.).

6-21-2013
Date


Carol A. Deel, LCMFT, LCPC
Chair
State Board of Professional Counselors
and Therapists

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Health Occ. Code Ann. § 17-512(b), the Applicant has the right to take a direct judicial appeal. Any appeal shall be filed within thirty (30) days from the date of this Final Decision and Order and shall be made as provided for judicial review

of a final decision in the Maryland Administrative Procedure Act, Md. State Gov't Code Ann. § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If the Applicant files an appeal, the Board is a party and should be served with the court's process at the following address:

**State Board of Professional
Counselors and Therapists
c/o
Tracey DeShields
Executive Director
4201 Patterson Avenue
Baltimore, Maryland 21215**

The Administrative Prosecutor is no longer a party to this case and need not be served or copied.

6-21-2013

Date



**Carol A. Deel, LCMFT, LCPC
Chair
Maryland State Board of
Professional Counselors and
Therapists**