IN THE MATTER OF	*	**BEFORE THE STATE BOARD**
MIKHAIL RUBINSHTEYN	*	**OF CHIROPRACTIC**
APPLICANT	*	**EXAMINERS**
	*	**Case Number: 07-004M**

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FINAL OPINION AND ORDER

Pursuant to Md. Code Ann., Health Occ. ("H.O.") § 3-315 (a) and Maryland Code of Regulations (COMAR) 10.43.02.07, The Maryland State Board of Chiropractic Examiners (the "Board") hereby renders the following final decision and order:

I. INTRODUCTION

Mr. Mikhail Rubinshteyn is an applicant for a license to practice massage therapy.

II. PROCEDURAL HISTORY

On August 13, 2007, the Board served Mr. Rubinshteyn with charges and a notice of intent to deny application to practice massage therapy, for violating certain provisions of the Md. Health Occ. Code Ann. § 3-5A-01, et. seq., ("the Massage Therapists Act"). The Board charged Mr. Rubinshteyn with violating the Maryland Health Occupations Code and its implementing regulations. Specifically, the Board charged Mr. Rubinshteyn with:

> (1) Frauduently or deceptively obtain[ing] or attempt[ing] to obtain a certificate or license for the applicant for another in violation of Md. Code Ann., Health Occ. § 3-5A-09(a)(1);
>
> (2) [Being] disciplined by a licensing, certifying, or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that

criminal background. Mr. Rubinshteyn submitted an application to the Board on January 8, 2007. On this application there are several questions regarding the applicant's criminal background. Including one that reads, "Have you ever been arrested or pled guilty, no contest, nolo contendere or been convicted of a crime, received probation before judgment (other than a traffic violation)?" Mr. Rubinshteyn underlined the word arrested on his initial application and stated that he had only been arrested and not convicted.

Ms. Thornton independently checked Mr. Rubinshteyn criminal background and discovered that he had in fact received Probation Before Judgment in 2004. Mr. Rubinshteyn's application was submitted under oath that the contents were correct and that he was truthful. Ms. Thornton followed up with Mr. Rubinshteyn for more information on this arrest. Mr. Rubinshteyn emailed Ms. Thornton and explained that he was found guilty of a misdemeanor possession charge and sentenced to two years unsupervised probation and community service. Ms. Thornton asked Mr.Rubinshteyn for proof that he had completed all the terms of his probation. Mr. Rubinshteyn failed to provide her with proof that he had completed his community service.

Mr. Rubinshteyn's first witness was Mr. Samuel Scott. Mr. Scott did not help Mr. Rubinshteyn prepare his application and was not present at Mr. Rubinshteyn's arrest or court proceedings. Mr. Scott testified that he had been friends with Mr. Rubinshteyn since elementary school. Mr. Scott stated that Mr. Rubinshteyn was a good friend and was of high moral character. Mr. Scott was not aware of any of the details of Mr. Rubinshteyn's arrests for marijuana possession and had never done

After considering the entire record in this case, including the testimony and exhibits entered into evidence at the hearing, and the arguments of counsel, the Board finds the following facts.

1. On or about, November 4, 2004, Mr. Rubinshteyn received a probation before judgment for possession of marijuana.

2. On or about January 8, 2007, Mr. Rubinshteyn submitted an application to the Board.

3. In this initial application, Mr. Rubinshteyn did not inform the Board that he had received probation before judgment for possession of marijuana. On this application, Mr. Rubinshteyn emphasized that he had only been arrested and was never convicted. This answer was not true.

4. Mr. Rubinshteyn's omissions on his application were done with the intent to defraud or deceive the Board.

V. CONCLUSIONS OF LAW

Based on the foregoing, the Board concludes that Mr. Rubinshteyn's application was fraudulent or deceptive. The omissions on Mr. Rubinshteyn's applications were knowing or voluntary. Mr. Rubinshteyn fraudulently or deceptively attempted to obtain a certificate or license for the applicant for another in violation of Md. Code Ann., Health Occ. § 3-5A-09(a)(1). The Board's decision is based on this one violation of its practice act. The Board did not find that Mr. Rubinshteyn violated Md. Code Ann., Health Occ. § 3-5A-09(a)3, § 3-5A-09(a)4 or § 3-5A-09(a)19).

The Board made these determinations based on the testimony of Mr.

NOTICE OF RIGHT OF APPEAL

In accordance with Md. Code Ann., Health Occ. § 3-316, you have a right to take a direct judicial appeal. A petition for appeal shall be filed within thirty days of your receipt of this Findings of Fact, Conclusions of Law and Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure. If Mr. Rubinshteyn files an appeal, the Board is a party and should be served with the court's process. The Administrative Prosecutor is not involved in the case at this point and need not be served with or copied on the pleadings.