

STATE OF NORTH CAROLINA

BEFORE THE NORTH CAROLINA
BOARD OF LICENSED PROFESSIONAL
COUNSELORS

IN THE MATTER OF:)
)
DONALD RAY MILLS, LPC,)
Respondent.)
Case Number 1343)

REVISED
FINAL DECISION

On November 1, 2012, upon a Petition for Judicial Review filed by Respondent, the Honorable James W. Morgan, Superior Court Judge Presiding, heard this matter. On November 14, 2012, the Judge Morgan issued an Order in which he remanded this matter to the North Carolina Board of Licensed Professional Counselors in order to modify its Final Decision consistent with his Order. This Revised Final Decision is issued in compliance with the Superior Court Order.

The North Carolina Board of Licensed Professional Counselors ("Board") heard this cause on September 14, 2012. A Notice of Hearing was served on Respondent on August 9, 2012, notifying him that the hearing would take place on September 14, 2012, at 10 am at the Wingate Inn located at 1542 Mechanical Blvd, in Garner, North Carolina. Respondent was present and was represented by Mr. Eric Montgomery, Esquire, of Mecklenburg County. Ms. Sondra C. Panico, Assistant Attorney General, appeared on behalf of the Board.

At the hearing of this matter, the Board heard testimony from Respondent, Nekie Boyd, Executive Director of Collective Momentum Counseling Services, LLC, and Bridget Rebello, LCSW, and accepted exhibits into evidence in a public session. After hearing the closing arguments, the Board retired into an executive session to deliberate, during which deliberations it made the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

The Board finds, by a preponderance of the evidence, that the following facts are true and relevant:

1. At all relevant times the Respondent was a professional counselor (LPC) licensed by the Board.
2. Respondent is employed as the CEO of Collective Momentum Counseling Services. His responsibilities include providing "individual and outpatient therapy to consumers to assist in helping them live a full and more satisfying life, as evidenced by developing insight as to what has triggered their situation that has led to some dysfunction, and to assume increasing degrees of responsibility and accountability for choices that they make." T p 9.

3. On September 8, 2010, Respondent pled guilty and was convicted of two federal felonies for running an illegal gambling business and for tax evasion. Board Exhibit Number 3; T p 16.
4. Respondent was sentenced to 9 months imprisonment with two years of supervised release and was ordered to pay \$111,004.91 in restitution to the federal government. Board Exhibit Number 3.
5. Respondent was incarcerated from June 21, 2011, until March 16, 2012, at Butner Federal Correctional Institution. T p 17.
6. On May 22, 2012, Stephen Robinson, LPCS, conducted an assessment of Respondent. T p 18. Respondent was ordered by the Court to undergo this assessment. T p 19.
7. In the assessment, Mr. Robinson reported, "The impression of this examiner is that there appears to be a discrepancy related to what [Respondent] presents as a professional and the significant criminal nondisclosure of his activities for which he was incarcerated." Respondent Exhibit Number 5, Board Exhibit Number 6.
8. Respondent testified that he had a regular poker game and that his ex-wife provided evidence to the State and to the Federal government about his illegal earnings. T p 21. He stated that he was not aware that he needed to pay taxes on a "little house game." T p 22.
9. Respondent presented the Presentence Investigation Report to the Board in which it was stated that, "The Bill of Information notes that [Respondent] concealed income he generated from his gambling business in a number of ways, including omitting the income on his U.S. income tax returns for the 2004-2008 tax years. According to the information, [Respondent] earned approximately \$372,153 from his illegal gambling business. The Plea Agreement reflects a disagreement between the parties regarding the appropriate loss amount. The government contends the loss amount is more than \$80,000 but less than \$200,000; the defendant contends the appropriate loss amount is more than \$30,000, but less than \$80,000." Respondent Exhibit Number 7.
10. The total amount of taxes due and owed between 2003 and 2008 was \$111,004.91. Respondent Exhibit Number 7.
11. In the Presentence Investigation Report, Respondent acknowledged that he used legalized gambling for years to supplement his lifestyle. He reported that he has been involved in gambling for many years and used it as a hobby to supplement his income. Respondent expressed no interest in any mental health treatment addressing any type of gambling addiction and asserted that his associations with gambling in the past was not a treatment issue. Respondent Exhibit Number 7.
12. The Presentence Investigation Report further stated that Respondent operated an illegal gambling business at 806 Ambassador Street, which was called "The Clubhouse." The Clubhouse was open 24 hours per day and as often as 7 days a week. T p 51.

13. The Presentence Investigation Report stated that Respondent is a regular gambler in New Orleans, LA, Las Vegas, NV, and Atlantic City, NJ. Respondent described himself as a professional gambler. Respondent admitted that he is described as a professional gambling but it was with regard to his style of gambling. He took the game very seriously and adhered to all the rules. T p 52.

14. Respondent stated that there was nothing addictive about his gambling and that his gambling was never a problem for him. T p 27

15. Nekie Boyd, who is the Executive Director of Collective Momentum Counseling Services, testified on behalf of Respondent. T p 44. She discussed his commitment to their clients. She stated that during his personal time he takes clients to church and gives them opportunities to have flexibility. T p 46. If the only time a client is available to be seen is at 9 pm, Respondent will make time available then to see the client. T p 47.

16. Bridget Rebello, LCSW, works with Respondent as an outpatient therapist. She described that his commitment to his clients is one hundred percent and he is extremely passionate about what he does. T p 48.

17. The Board further finds that Respondent does not comprehend the impact his gambling has had on life. The evidence establishes that his traveling for gambling, opening the Club House, and the amount of money he earned while gambling, all demonstrate that gambling is a mental and professional impairment for Respondent.

CONCLUSIONS OF LAW

I. The Board has jurisdiction of the subject matter of this contested case and over the Respondent.

II. The Respondent's conduct violated N.C. Gen. Stat. § 90-340(a)(1), which alone warrants the disciplinary action taken by the Board.

N.C. Gen. Stat. § 90340(a)(1), states:

(a) The Board may, in accordance with the provisions of Chapter 150B of the General Statutes, deny, suspend, or revoke licensure, discipline, place on probation, limit practice, or require examination, remediation, or rehabilitation of any person licensed under this Article on one or more of the following grounds:

(1) Has been convicted of a felony or entered a plea of guilty or nolo contendere to any felony charge under the laws of the United States or of any state of the United States.

The Court found that this Conclusion of Law is supported by substantial competent evidence in the

record as a whole and that this Conclusion supports the Order of the Board. The Court further finds that Respondent did not take exception to this Conclusion of Law.

NOW, THEREFORE, the NORTH CAROLINA BOARD OF LICENSED PROFESSIONAL COUNSELORS ORDERS:

I. The license of the Respondent, Donald Mills, is hereby SUSPENDED for six months, specifically from January 2, 2013, through July 2, 2013.

II. No later than January 2, 2013, Respondent shall terminate services to all of his patients/clients and make provisions for the appropriate transition of his patients/clients to another therapist, as appropriate. Respondent shall also cease to engage in any other activities that meet the definition of the practice of counseling in N.C. Gen. Stat. § 90-330(a)(3), including the supervision of any other professionals that are engaged in activities that meet the definition of the practice of counseling. Respondent shall provide a signed affidavit (a written statement made under oath or affirmation taken before a person having authority to administer such oath or affirmation) to the Board no later than January 9, 2013, attesting that he has terminated and transferred all of his patients/clients by January 2, 2013. He shall further attest that he is no longer engaged in the practice of counseling in any way.

III. Once the suspension is lifted on July 2, 2013, Respondent may resume the practice of counseling, and his license shall be on PROBATION for a two year period during which he shall successfully complete the following:

- A. Respondent shall enroll in and successfully complete a three credit graduate level course in ethics. The graduate level course shall be taken in person at a regionally accredited institution of higher education. Respondent will demonstrate his successful completion of the graduate level courses by earning a final grade of "B" or better on an A-F grading scale, or a "P" on a pass-fail grading scale. All costs associated with the course work shall be borne by the Respondent. Respondent shall arrange to have an official transcript forwarded directly from the institution of higher education to the Board office once he has successfully completed the graduate level ethics course.
- B. For a period of two years, Respondent shall be supervised by a Board approved supervisor, with whom he has no pre-existing relationship, for one hour of individual face to face supervision for 40 hours of counseling practice, with no less than one supervision session per month. The supervisor must be approved by the Board prior to the beginning of supervision. The supervisor shall provide the Board with quarterly supervision reports. At the conclusion of the two years of supervision, Respondent's Board approved supervisor shall submit a Final Supervision Report to the Board. Respondent must receive at least average ratings from his supervisor in all of the supervision reports in order to be released from the supervision. At the conclusion of the two years of supervision, so long as Respondent's ratings are average or above on all supervision reports, the Board

Chair shall provide him with written approval of his release from supervision. Any costs and associated expenses of this supervision shall be borne by the Respondent.

IV. Upon the successful completion of the supervision set forth in III. B., in order to be released from PROBATION, Respondent shall successfully complete the conditions in subparagraphs A and B, AND he shall undergo a fitness for practice evaluation by a Board approved evaluator. Once the evaluation is complete, the Board, within its discretion, based upon the evaluation report, will determine whether to issue Respondent an unrestricted license or require Respondent to continue on probation.

V. The Board shall maintain this Revised Final Decision as a public record pursuant to N.C. Gen. Stat. §§ 132-1 and 90-340(f), and shall provide copies to the American Counseling Association and the National Board of Certified Counselors, and to other agencies or individuals as required by law.

This the 7th day of December, 2012.

NORTH CAROLINA BOARD OF LICENSED PROFESSIONAL COUNSELORS

BY:

A handwritten signature in cursive script, appearing to read "Loriann Stretch", written in black ink over a white background.

LORIANN STRETCH, PH.D., LPCS
BOARD CHAIRPERSON

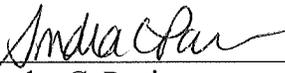
CERTIFICATE OF SERVICE

I, Sondra C. Panico, Assistant Attorney General, hereby certify that I have this date delivered a copy of the foregoing **REVISED FINAL DECISION** upon the following by first class mail on this day, addressed as follows:

Donald Ray Mills
7435 Meadowdale Lane
Charlotte, NC 28212

Eric A. Montgomery
The Montgomery Law Firm, PLLC
6135 Park South Drive, Suite 510
Charlotte, NC 28210

This the 10^m day of December, 2012.



Sondra C. Panico
Assistant Attorney General