

STATE OF INDIANA,)
)
 Petitioner,)
)
 v.)
)
 JOHN DOUGLAS JACO, L.S.W.,)
 License No. 33004643A)
)
 Respondent.)

FILED

JUL 3 0 2003

**HEALTH PROFESSIONS
BUREAU**

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The Social Worker, Marriage and Family Therapist, and Mental Health Counselor Board, (hereinafter "Board"), pursuant to the authority of Indiana Code § 4-21.5-4-1 and Indiana Code § 25-1-9-9, held an administrative hearing on June 23, 2003, in Room 1, of the Conference Center, Indiana Government Center-South, 302 West Washington Street, Indianapolis, Indiana, as provided for by proper notice, at a duly constituted meeting, concerning a disciplinary complaint filed against John Douglas Jaco, L.S.W. (hereinafter "Respondent").

Deputy Attorney General James R. Holden represented the State of Indiana. The Respondent appeared in person and by counsel, Mr. Todd J. Kaiser. The Board, after considering the evidence presented and taking official notice of its file in this matter, by a vote of 7-0-0, issued the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent holds an unlimited license in the State of Indiana to practice social work. Respondent's license number is 33004643A.
2. The Board, pursuant to Indiana Code § 4-21.5-4-1 and Indiana Code § 25-1-9-9, has jurisdiction to hear this matter.
3. Respondent's address is on file with the Board and is 16414 York Minster Drive, Spring, TX 77379.
4. Respondent was before the Board on charges of violating the following statutory provisions:
 - a. IC § 25-1-9-4(a)(1)(B) for engaging in fraud or material deception in the course of professional services or activities for allowing his name and Indiana Social Worker license to be used in a misleading and unlawful advertisement.
 - b. IC § 25-1-9-4(a)(1)(C) for advertising services in a false and misleading manner for the above-mentioned advertisement.
 - c. IC § 25-1-9-4(a)(6) for allowing the practitioner's name and/or license to be used in connection with an individual who renders services beyond the scope of that individual's training, experience, or competence in the above-mentioned advertisement.
5. The state argued the Respondent was guilty of the licensing violations due to his allowing his name and license to be used in an advertisement for stop smoking and weight loss seminars, which led consumers to believe the seminars were to be conducted by an Indiana licensed hypnotherapist "Ronald Gorayeb," of Gorayeb Seminars, Inc.

6. The state argued the advertisement was false and misleading and that Respondent was in violation of the above referenced statutory provisions by allowing his name to be used in connection with the advertisement.
7. As a licensed social worker, Respondent is exempt from the licensure requirements of Indiana Code 25-20.5 and may use hypnotherapy to the extent of his training in his practice as a social worker.
8. Respondent is trained in the area of hypnotherapy.
9. Respondent is a contract employee for Gorayeb Seminars, Inc., and bore no responsibility for the advertisement regarding the "Lose weight with Hypnosis," and "Stop Smoking with Hypnosis" seminars promulgated by Gorayeb Seminars.
10. Respondent testified that when he saw the advertisement was published, he contacted Gorayeb Seminars, Inc. and shared with them that the advertisement was incorrect and should be changed.

CONCLUSIONS OF LAW

1. Indiana Code § 25-1-9-9(a) provides in pertinent part that:

- (a) The board may impose any of the following sanctions, singly or in combination, if it finds that a practitioner is subject to disciplinary sanctions under section 4,5,6,6.7, or 6.9 of this chapter or IC § 25-1-5-4:
Ellipses added.

2. Indiana Code § 25-1-9-4(a)(1)(B) provides that:

- (a) A practitioner shall conduct the practitioner's practice in accordance with the standards established by the board regulating the profession in question and is subject to the exercise of the disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds:

- (1) a practitioner has:

- (B) engaged in fraud or material deception in the course of professional services or activities;

3. Indiana Code § 25-1-9-4(a)(1)(C) provides that:

- (a) A practitioner shall conduct the practitioner's practice in accordance with the standards established by the board regulating the profession in question and is subject to the exercise of the disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds:

- (1) a practitioner has:

- (C) advertised services in a false or misleading manner; and

4. Indiana Code § 25-1-9-4(a)(6) provides that:

- (a) A practitioner shall conduct the practitioner's practice in accordance with the standards established by the board regulating the profession in question and is subject to the exercise of the disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds:

- (6) a practitioner has allowed the practitioner's name or a license issued under this chapter to be used in connection with an individual who

renders service beyond the scope of that individual's training, experience, or competence;

5. Where a property interest is at stake, the standard of review for an administrative proceeding is a preponderance of the evidence. See *Burke v. City of Anderson*, 612 N.E.2d 559 (Ind. Ct. App. 1993).

6. The Board did not find that the evidence presented showed by a preponderance of the evidence that Respondent was guilty of such licensing violations.

ORDER

Based upon the foregoing Findings of Fact, the Board now **DISMISSES** the Complaint in this matter.

SO ORDERED this 30th day of July, 2003.

SOCIAL WORKER, MARRIAGE
AND FAMILY THERAPIST, AND
MENTAL HEALTH COUNSELOR
BOARD

By: 
Lisa R. Hayes, Executive Director
Health Professions Bureau

Distribution List:

John Douglas Jaco, L.S.W.
164 York Minster Drive
Spring, Texas 77379

Sent Via Certified Mail Number: 7001 2510 0002 5178 1349
RETURN RECEIPT REQUESTED

Todd J. Kaiser, Esq.
Ogletree Deakins Law Firm
One Indiana Square, Suite 2300
Indianapolis, Indiana 46204

Sent Via Certified Mail Number: 7001 2510 0002 5178 1356
RETURN RECEIPT REQUESTED

James R. Holden, Deputy Attorney General
Office of the Attorney General
Indiana Government Center South
402 West Washington Street, 5th Floor
Indianapolis, Indiana 46204

Tracy Richardson, Deputy Attorney General
Office of the Attorney General
Indiana Government Center South
402 West Washington Street, 5th Floor
Indianapolis, Indiana 46204

108453v1