

BEFORE THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS

In The Matter Of:

JAMES E. MACALPINE, D.D.S.
(License No. 4087)

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CONSENT ORDER
OF DISCIPLINE

THIS MATTER is before the North Carolina State Board of Dental Examiners (Board) as authorized by G.S. 90-41.1(b) for consideration of a Consent Order in lieu of a formal administrative hearing. James E. MacAlpine, D.D.S. (Respondent), consents to the Findings of Fact and Conclusions of Law set out herein and to the entry of the Order of Discipline.

FINDINGS OF FACT

1. The Dental Board is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding pursuant to the authority granted to it in Chapter 90 of the North Carolina General Statutes, including the Dental Practice Act and the Rules and Regulations of the North Carolina State Board of Dental Examiners.

2. The Respondent was licensed to practice dentistry in North Carolina on July 21, 1975 and holds license number 4087.

3. At all times relevant hereto, the Respondent was subject to the Dental Practice Act and the Board's rules and regulations promulgated thereunder.

4. In December 2001, the Respondent was convicted in state court of five misdemeanor counts of failing to file/pay income taxes.

5. In December 2001, the Respondent was convicted in state court of 13 misdemeanor counts of failing to withhold taxes.

6. The offenses of failing to file/pay income taxes and failing to withhold taxes are misdemeanor offenses involving moral turpitude.

7. On December 2, 2009, Respondent entered a plea of guilty to two felony counts of harboring a fugitive in violation of 18 U.S.C. Section 1071.

Based upon the Findings of Fact and the consent of the parties hereto, the Board enters the following:

CONCLUSIONS OF LAW

1. The N.C. State Board of Dental Examiners has jurisdiction over the subject matter of this action and over the person of the Respondent.

2. By entering a plea of guilty to two felony counts of harboring a fugitive in violation of 18 U.S.C. Section 1071, the Respondent violated N.C. Gen. Stat. 90-41(a)(4) and engaged in acts violative of Article 2 of Chapter 90 of the North Carolina General Statutes, in violation of N.C. Gen. Stat. 90-41(a)(6).

3. By being convicted of five misdemeanor counts of failing to file/pay income taxes and 13 misdemeanor counts of failing to withhold taxes, the Respondent has been convicted of misdemeanor offenses

involving moral turpitude in violation of G.S. 90-41(a)(4) and engaged in acts violative of Article 2 of Chapter 90 of the North Carolina General Statutes, in violation of N.C. Gen. Stat. 90-41(a)(6).

ORDER OF DISCIPLINE

Based upon the foregoing Findings of Fact and Conclusions of Law and with the consent of the parties hereto, it is ORDERED as follows:

1. License Number 4087 issued to the Respondent for the practice of dentistry is hereby suspended for a period of one (1) year.

2. With the Respondent's consent, his license to practice dentistry shall be immediately restored, with no period of active suspension, provided that, for five (5) years from the date of this Order, he adheres to the following probationary terms and conditions:

- (a) The Respondent shall violate no provision of the Dental Practice Act or the Board's rules and regulations.
- (b) The Respondent shall submit to interviews by the Dental Board or its authorized agent during regular office hours or at such other times as are mutually convenient. The Respondent shall also arrange for the Board or its agent to interview his employees during regular office hours.
- (c) Respondent shall, within one (1) year of the date of this Order, successfully complete the continuing education course entitled "Ethics in Dentistry," by Michael D.L.

Weisenfield, D.D.S. and Wayne S. Silverman, D.D.S. Respondent shall submit to the Board's Deputy Operations Officer written proof of satisfactory completion of this course. It is the Respondent's responsibility to make all arrangements and complete the course within the specified time.

- (d) Within one (1) year of the date of this Order, the Respondent must take and pass the Board's written jurisprudence exam at his sole expense. The Respondent shall submit written proof that he has successfully passed the exam to the Board's Deputy Operations Officer within ten (10) days of passing the exam.
- (e) Respondent shall, within two (2) years from the date of this Order, perform one hundred (100) hours of community dental service approved by the Board, in writing, and in advance of performed work. **Work not previously approved by the Board shall not count toward satisfaction of the Respondent's obligation under this paragraph.** Within thirty (30) days of issuance of this Consent Order, Respondent shall submit to the Board a written plan for compliance with this condition. After a plan is approved by the Board and until such time

the plan is completed, Respondent shall furnish to the Board a monthly report which should include a daily tabulation of all services performed by him under the plan during the preceding month. The report must be signed by an individual at the location who has been pre-approved by the Board. Respondent shall be responsible for all costs associated with his community service.

- (f) The Respondent shall file and pay all state and federal taxes on a timely basis.
- (g) Within thirty (30) days of the date of this Order, the Respondent shall present written proof to the Board's Deputy Director of Investigations that he has repaid all back taxes, including penalty and interest, owed to the State of North Carolina Department of Revenue for tax years 1997 – 2001, inclusive.
- (h) Within thirty (30) days of the date of this Order, Respondent shall reimburse the Board for the costs associated with its investigation of this matter in the amount of \$100.00.

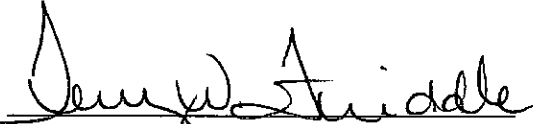
3. If the Respondent violates any term of this Order breaches any term or condition of the conditional restoration of his license, the Board will immediately schedule a hearing to require the Respondent to appear and

show cause why his dental license should not be suspended. This sanction shall be in addition to and not in lieu of any sanction that the Board may impose as a result of future violations of the Dental Practice Act or the Board's rules.

This the 25th day of May, 2010.

THE NORTH CAROLINA STATE
BOARD OF DENTAL EXAMINERS

By:



Terry W. Fiddle

Deputy Operations Officer

STATEMENT OF CONSENT

I, JAMES E. MACALPINE, D.D.S. do hereby certify that I have read the foregoing Consent Order in its entirety and that I do freely and voluntarily consent to the Findings of Fact, Conclusions of Law, Order of Discipline and the terms and conditions set forth herein. By signing this Statement of Consent I hereby express my understanding that the Board will report the contents of this Consent Order to the National Practitioner Data Bank and that this Consent Order shall become a part of the permanent public record of the Board.

This the 16 day of April, 2010.



JAMES E. MACALPINE D.D.S.