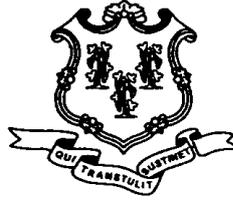


STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH



J. Robert Galvin, M.D., M.P.H.
Commissioner

M. Jodi Rell
Governor

Kurt Spartz
23 Shannon Lane
Groton CT 06340

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& First Class Mail

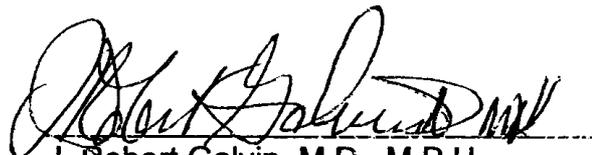
IN RE: Kurt Spartz, NHA

Petition No. 2003-0116-036-001

FINAL MEMORANDUM OF DECISION

In accordance with Connecticut General Statutes Section 4-180, the attached Proposed Memorandum of Decision issued October 4, 2004, by Hearing Officer Alfreda Gaither, is hereby adopted as the final decision of the Commissioner of the Department of Public Health in this matter. A copy of the Proposed Memorandum of Decision is attached hereto and incorporated herein.

OCTOBER 28, 2004
Date


J. Robert Galvin, M.D., M.P.H.
Commissioner

- c: Richard J. Lynch, Assistant Attorney General
Wendy H. Furniss, Bureau Chief, Healthcare Systems
Marianne Horn, Director, Health Systems Regulation
Stanley K. Peck, Director, Legal Office
Jennifer Filippone, Public Health Services Manager, OPLC



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**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH**

Kurt Spartz, N. H. A.

Petition No. 2003-0116-036-001

PROPOSED MEMORANDUM OF DECISION

Procedural Background

On May 9, 2003, the Department of Public Health ("the Department") issued a Statement of Charges ("the Charges") and a Motion for Summary Suspension against Kurt Spartz, N. H. A. ("respondent"). Rec. Exh.1. The Charges allege that respondent's conduct as a Nursing Home Administrator constitutes grounds for disciplinary action pursuant to the Connecticut General Statutes ("the Statutes") §§19a-17 and §19a-517.

On May 14, 2003, the Commissioner appointed this Hearing Officer to hear this matter, to rule on all motions, and determine findings of fact and conclusions of law. Rec. Exh. 2.

On May 15, 2003, the Department sent respondent by certified mail, return receipt requested and first class mail, a notice to appear for oral argument regarding the Motion for Summary Suspension. Rec. Exh. 3.

On May 29, 2003, the Department issued a Summary Suspension Order, Statement of Charges and Notice of Hearing to respondent by certified mail, return receipt requested and first class mail. The Notice of Hearing directed respondent to appear before this Hearing Officer for a formal hearing on the allegations contained in the Charges. A hearing was scheduled for June 2, 2003. Rec. Exh. 4.

On June 9, 2003, a continuance of the hearing was granted because respondent was incarcerated in the Bergen Correctional Institution in Storrs, Connecticut, and could not attend the hearing. Rec. Exh. 6.

On July 1, 2003, respondent filed a Motion for Dismissal, dated June 25, 2003. Rec. Exh. 7.

On July 7, 2003, a second continuance was granted. Rec. Exh. 10.

Respondent did not file an Answer to the Charges.

The hearing was rescheduled to be held on August 12, 2004, after respondent was no longer incarcerated. The Notice of Continuance of the hearing was served on respondent at

23 Shannon Lane, Groton, CT 06340, the address of record. Respondent failed to appear and was not represented by counsel. Attorney Matthew Antonetti represented the Department.

On August 12, 2004, the Department orally moved to deem the allegations admitted (“the Motion”) pursuant to §19a-9-20 of the Regulations of Connecticut State Agencies (“the Regulations”). The Motion was granted, upon sufficient proof of service on respondent, and respondent’s Motion for Dismissal was denied. Dept. Exh. 1; Tr. pp. 9-10.3

This Proposed Memorandum of Decision is based entirely on the record and sets forth this Hearing Officer’s proposed findings of fact and conclusions of law.

Allegations

1. In paragraph 1 of the Charges, the Department alleges that respondent is, and has been at all times referenced in the Statement of Charges, the holder of Connecticut Nursing Home Administrator license number 001133.
2. In paragraph 2 of the Charges, the Department alleges that on January 2003, respondent pled guilty to larceny in the first degree for embezzling from 1995 to 2001 nearly \$300,000 from the Odd Fellows Home of Connecticut, located in Groton, Connecticut.
3. In paragraph 3 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, §19a-517, including, but not limited to:
 - a. §19a-517(b)(1); and/or,
 - b. §19a-517(b)(3).

Findings of Fact

1. The Department provided respondent with adequate and reasonable notice of the hearing in this matter by sending such notice to respondent. Respondent received the Notice of Hearing. Dept. Exh. 1; Tr. p. 7.
2. The allegations contained in paragraphs one through three, inclusive, of the Charges, as set forth above, are deemed admitted and true. Dept. Exh. 1; Tr. pp. 9-10.

Discussion and Conclusions of Law

The hearing in this matter was conducted in accordance with Chapter 54 of the Connecticut General Statutes, and §§19a-9-1 *et seq.* of the Regulations. In bringing this action, the Department seeks disciplinary actions as set forth in §19a-17, against respondent’s license, based on allegations that respondent violated §§19a-517(b)(1) and (b)(3) of the Statutes. Section 19a-517(b) provides in pertinent part that:

The department may take action under section 19a-17 for any of the following reasons: (1) the license holder . . .has engaged in fraud or deception in the course of professional services or activities; . . . (3) illegal, incompetent or negligent conduct in his practice; . . .

The Department bears the burden of proof by a preponderance of the evidence.

Although respondent did not file an Answer, he filed a Motion for Dismissal in which he admitted that he had pled guilty to larceny in the first degree, on January 13, 2003 under the Alford Doctrine, for embezzling from 1995 to 2001 nearly \$300,000 from the Odd Fellows Home of Connecticut, located in Groton, Connecticut. Therefore, the allegations are deemed admitted. §19a-9-20 of the Regulations of Connecticut State Agencies.

In addition to the allegations deemed admitted, the Department established by a preponderance of the evidence that revocation of respondent's license is warranted. The Department submitted, as support for summary suspension of respondent's license, copies of the Superior Court Records from the Judicial District of New London, which included the application for the warrant for respondent's arrest. In the arrest warrant affidavit, respondent admitted that in his capacity as controller and Nursing Home Administrator, he had embezzled approximately \$200,000 from the operating funds of the Odd Fellows Home of Connecticut from 1995 to 2001. With accrued interest from the money market account, charitable donations, and workers compensation checks, the total amount embezzled was approximately \$300,000. Respondent also admitted in his Motion for Dismissal that he committed such a crime, but he refused to acknowledge that his actions resulted in any losses to the facility or posed any danger to the public health and safety of its residents. Respondent was sentenced to 7 years, suspended after 16 months in prison, with 5 years of probation.

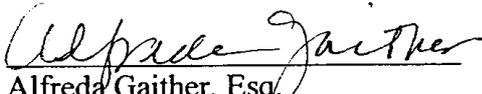
Respondent's commission of a crime while employed as a Nursing Home Administrator, for which he holds a license, constitutes illegal conduct in his practice. Such conduct is sufficient grounds on which to impose disciplinary action on his license pursuant to §19a-17 in conjunction with both §§19a-517(b)(1) and (b)(3) of the Statutes.

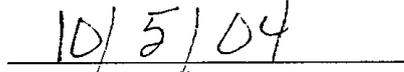
Connecticut General Statutes §19a-17 provides a range of disciplinary action that may be ordered under such circumstances, including revocation of respondent's license. In this case, respondent's conduct was particularly disturbing because it was criminal in nature, and establishes that respondent cannot be entrusted with one of the essential responsibilities of nursing home administrators: being responsible for the finances of a nursing home facility.

Proposed Order

Based on the record in this case, the above findings of fact and conclusions of law, this Hearing Officer respectfully recommends to the Commissioner, that he revoke respondent's Nursing Home Administrator's license number 001133.

Respectfully Submitted,


Alfreda Gaither, Esq.
Hearing Officer


Date