

IN THE MATTER OF	*	BEFORE THE
FRANK J. BIANCA, DDS	*	STATE BOARD OF
License No. 4137	*	DENTAL EXAMINERS
Respondent	*	Case No. 2010-055

* * * * *

FINAL CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Dental Examiners (the "Board"), and subject to Md. Health Occ. Ann. § 4-101, *et seq.*, (2009 Repl. Vol.) (the "Act"), the Board charged Frank Bianca, DDS, (the "Respondent"), with violations of the Act. Specifically, the Board charged the Respondent with violation of the following provisions of §4-101, *et seq.*, (the "Act") (2009 Repl. Vol.).

§ 4-315. Denials, reprimands, probations, suspensions, and revocations -

Grounds.

- (a) Subject to the hearing provisions of § 4-318 of this subtitle, the Board may deny a general license to practice dentistry, a limited license to practice dentistry, or a teacher's license to practice dentistry to any applicant, reprimand any licensed dentist, place any licensed dentist on probation, or suspend or revoke the license of any licensed dentist, if the applicant or licensee:
 - (16) Behaves dishonorably or unprofessionally, or violates a professional code of ethics pertaining to the dentistry profession;
 - (20) Willfully makes or files a false report or record in the practice of dentistry;

§ 4-301. License required; exceptions.

(a) *In general.*-

- (1) Except as otherwise provided in this title, an individual shall be licensed by the Board to practice dentistry before the individual may practice dentistry on a human being in this State.

The Respondent was given notice of the issues underlying the Board's charges by a letter dated January 6, 2011. Accordingly, a Case Resolution Conference was held on February 16, 2011, but the Respondent failed to appear, claiming that he did not receive the notification regarding same and was not aware of the Charges until he received the State's Exhibit notebook in preparation for the hearing scheduled on April 6, 2011.

At that time, his Attorney, Jason DeLoach and the Administrative Prosecutor, Roberta Gill, Assistant Attorney General, were able to work out a joint settlement agreement which was put on the record before the Board, which was convened for the hearing. The State gave a brief synopsis of the issues and presented the settlement proposal. Mr. DeLoach presented an explanation of the Respondent's reasons for failure to timely renew his license and indicated his agreement to the State's proposal. The Respondent answered a question posed by a Board member and the parties were excused while the Board deliberated. Then the parties were called back to the hearing where the Board President announced that the quorum of the Board had accepted the Joint Settlement Proposal as set forth herein.

FINDINGS OF FACT

1. At some of the times relevant to the charges herein, the Respondent was licensed to practice dentistry in the State of Maryland. The Respondent was first licensed on August 18, 1966. The Respondent's license expired on June 30, 2009

2. On July 8, 2009, the Respondent was notified by the Board that, as of July 6, 2009, the Board had not received his 2009 renewal application and that it must be received by the Board no later than July 31, 2009, accompanied by the application fee plus a late fee of \$150. The letter further informed the Respondent that, as of August 1, 2009, licensees who have not submitted a renewal application will be placed on non-renewed status and will be issued an Agreement to Cease and Desist the practice of dentistry, and anyone who continues to practice dentistry without having renewed their (*sic*) license will be considered to be practicing without a license and may be subject to Board disciplinary action. The letter further instructed the Respondent to submit his application to the Board on or before July 31, 2009.

3. On August 10, 2009, the Board again wrote the Respondent indicating that his active license expired on June 30, 2009 and that the Board's late renewal period ended July 31, 2009. It informed him that, effective August 1, 2009, his license was "non-renewed" and he was prohibited from practicing dentistry. At this point, his license could only be reinstated. The letter informed him that, if he had practiced dentistry in Maryland on or after August 1, 2009, he was requested to execute the enclosed Cease and Desist and return it to the Board's attention no later than August 24, 2009.

4. On August 10, 2009, the Respondent came to the Board's office and signed an affidavit that he practiced on August 3, 4, 5, and 7, 2009, but had not practiced since August 10, 2009. He filled out a reinstatement application and took and passed the Board's jurisprudence examination and was granted a license which expires on June 30, 2011.

5. On April 29, 2010, the Board then sent the Respondent a letter informing him that, because he had practiced dentistry while he was unlicensed, it was offering him a chance to enter into a non-public consent agreement whereby he would have to provide 40 hours of Board-pre-approved community service and donate \$400 anonymously to a Board-approved charity. The Respondent was to have signed the document and sent it back to the Board by May 17, 2010. The Respondent failed to do so.

6. Rather, on May 6, 2010, the Respondent wrote the Board explaining that he had had a series of health problems and his mail delivery was sporadic. Therefore, he asked the Board to waive his having to comply with the Board's non-public Consent Agreement. On May 20, 2010, the Board replied, denying the Respondent's waiver request and enclosing another agreement for him to sign and return to the Board by June 7, 2010.

7. The Respondent failed to return the document. The Board's Compliance Officer attempted to contact him telephonically several occasions, but the Respondent failed to return the telephone calls.

8. As set forth above, by practicing dentistry without a license, including billing patients, the Respondent violated the Act.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated § 4-315 (16) and (20), and § 4-301 (1).

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 20 day of April 2011, by a majority of a quorum of the Board,

ORDERED that the Respondent's license to practice dentistry is hereby **REPRIMANDED**;

ORDERED that the Respondent shall be placed **PROBATION** for Two years, subject to the following conditions:

- A. The Respondent shall, within the first year of Probation, take and pass the Jurisprudence, Ethics and Risk Management (JERM) Examination. Should the Respondent fail this examination, he may take it two more times within the first year of Probation. If he should fail said examination three times, his license shall be suspended until he passes same;
- B. The Respondent shall, within the first year of Probation, donate 40 hours of Board-approved community service, documented to the Board;
- C. The Respondent shall, within the first year of Probation, donate \$400

anonymously to a Board-approved charity and document same to the Board;

D. The Respondent shall be responsible for the costs of compliance with the Board Order;

E. There shall be no early termination of Probation.


ORDERED that the Consent Order is effective as of the date of its signing by the Board; and be it

ORDERED that, should the Board receive a report that the Respondent has violated the Act or, if the Respondent violates any conditions of this Order or of Probation, after providing the Respondent with notice and an opportunity for a hearing, the Board may take further disciplinary action against the Respondent, including suspension or revocation. The burden of proof for any action brought against the Respondent as a result of a breach of the conditions of the Order or of Probation shall be on the Respondent to demonstrate compliance with the Order or conditions; and be it

ORDERED that the Respondent shall practice in accordance with the laws and regulations governing the practice of dentistry in Maryland; and be it further

ORDERED that, at the end of the Probationary period, the Respondent may petition the Board to remove any conditions or restrictions on his license, provided that he can demonstrate compliance with the conditions of this Order. Should the Respondent fail to demonstrate compliance, the Board may impose additional terms and conditions of Probation, as it deems necessary;

ORDERED that, for purposes of public disclosure, as permitted by Md. State Gov't. Code Ann. §10-617(h) (Repl. Vol. 2009), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law and Order and that the Board may also disclose same to any National reporting data bank that it is mandated to report to.


T. Earl Flanagan, Jr. DDS, President
State Board of Dental Examiners

CONSENT OF FRANK BIANCA, DDS

I, Frank Bianca, by affixing my signature hereto, acknowledge that I am represented by counsel and have consulted with counsel before entering into this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by the law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed after any such hearing.

I sign this Consent Order, voluntarily and without reservation, after having an opportunity to consult with counsel, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

1. I am aware that without my consent, my license to practice dentistry in this State cannot be limited except pursuant to the provisions of § 4-315 of the Act and the Administrative Procedure Act (APA) Md. State Govt. Code Ann. §10-201, et seq., (2004 Repl. Vol.).

2. I am aware that I am entitled to a formal evidentiary hearing before the Board.

By this Consent Order, I hereby consent and admit to the foregoing Findings of Fact, Conclusions of Law and Order, provided the Board adopts the foregoing Consent Order in its entirety. By doing so, I waive my right to a formal hearing as set forth in § 4-318 of the Act and §10-201, et seq., of the APA, and any right to appeal as set forth in § 4-319 of the Act and §10-201, et seq., of the APA. I acknowledge that my failure to abide by the conditions set forth in this Order and following proper procedures, I may suffer disciplinary action, possibly including revocation, against my license to practice dentistry in the State of Maryland.

4/18/11
Date

Frank Bianca DDS
Frank Bianca, DDS

STATE OF Maryland :
CITY/COUNTY OF Prince George's :

KIMBERLY L. SHEAROD
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires November 6, 2012

I HEREBY CERTIFY that on this 18th day of April, 2011, before me, Kimberly Shearod, a Notary Public of the foregoing State and (City/County),
(Print Name)
personally appeared Frank Bianca, License No. 4137, and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

Kimberly Sheard
Notary Public

My Commission Expires: 11/10/12