

IN THE MATTER OF
JAMES P. TINKER, II, LGSW

Respondent

License Number: 17705

*** BEFORE THE MARYLAND**
*** STATE BOARD OF**
*** SOCIAL WORK EXAMINERS**
*** Case Number: 2014-2002**

* * * * *

FINAL ORDER

On this 11th_ day of March, 2016, the Maryland State Board of Social Work Examiners (the "Board") notified **JAMES P. TINKER, II, LGSW**, License Number 17705 (the "Respondent"), of its intent to revoke his license to practice graduate social work in the State of Maryland under the Maryland Social Workers Act (the "Act"), Md. Code Ann., Health Occ. II, ("Health Occ. II") §§ 19-101 *et seq.* (2014 Repl. Vol.).

Specifically, the Board charged the Respondent with violation of the following provisions of the Act under Health Occ. II, § 19-311:

Subject to the hearing provisions of § 19-312 of this subtitle, the Board may deny a license to any applicant, fine a licensee, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the applicant or licensee:

- (7) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside[.]

In its Notice, the Board informed the Respondent that he had the opportunity to request a hearing before the Board by submitting a request in writing to the Board's Executive Director within thirty days of service of the Notice. More than thirty days have

elapsed since service of the Notice on the Respondent, and the Respondent has not requested a hearing.

FINDINGS OF FACT

The Board makes the following findings of fact:

Background

1. The Respondent was initially licensed to practice graduate social work in the State of Maryland on or about January 24, 2012, under license number 17705.

2. In addition, the Respondent holds a Licensed Master Social Worker (LMSW) license in New York under license number 076643.

Complaint

3. On or about August 21, 2014, the Board received a report (the "Complaint")¹ from a Baltimore County Police Department detective (the "Complainant") that the Respondent had been arrested and charged with felony crimes related to the possession and distribution of child pornography.

4. At the time of the complaint, the Respondent was employed as a licensed graduate social worker at a substance abuse treatment center located in Baltimore ("Employer A") and a counseling center located in Glen Burnie ("Employer B").

5. Based on the Complaint, the Board began an investigation of the Respondent.

Investigation

6. In furtherance of its investigation, the Board obtained records from the Respondent's employers. Although the records revealed that the Respondent was

¹ To ensure confidentiality, the names of individuals, patients, clients and facilities involved in this case, other than the Respondent's, are not disclosed in this document

involved in counseling two minor female clients (“Client A” and “Client B”), aged 14 and 12, there were no complaints against the Respondent relating to those two minor clients.

7. In addition, the Board obtained detailed police records regarding the seizure of child pornography from the Respondent’s home, his arrest and his criminal charges.

Images and Video

8. On or about July 9, 2014, a detective (the “Detective”) of the Baltimore County Police Department’s Crimes Against Children Unit was conducting an online investigation on the BitTorrent file-sharing network² for offenders sharing child pornography. The Detective directed his investigation to an IP address associated with files identified with child pornography (the “IP Address”).

9. The Detective was able to directly access the computer at the IP Address and download two files from it.

10. The first file (“Image A”) depicts a prepubescent female child, approximately 6-9 years old, in a standing pose. The child’s undeveloped breasts are exposed and her right hand is pushing down her shorts and touching her partially exposed vagina. The female child is “posed in a manner that sexually exploits her genitals and makes them the focal point of the image.”

11. The second file (Image B”) depicts a prepubescent female child, approximately 6-9 years old, in a sitting pose. The child’s undeveloped breasts are exposed and her right hand is pushing aside her shorts and touching her partially

² BitTorrent is a protocol supporting the practice of peer-to-peer file sharing that is used to distribute large amounts of data over the Internet.

exposed vagina. The female child is “posed in a manner that sexually exploits her genitals and makes them the focal point of the image.”

12. On or about July 25, 2014, the Detective again directly connected to the computer at the IP Address. This time, he was able to download a video file (“Video A”) from it.

13. Video A depicts a nude prepubescent female child, approximately 9-11 years old. She appears to be inside a tent with the camera operator, an adult male. The child is shown lying on her stomach while the camera operator fondles and digitally penetrates her vagina.

14. The police records indicate that Image A, Image B, and Video A are child pornography.

15. Once the Detective determined that the IP Address was assigned to a national Internet Service Provider (“the ISP”), a grand jury subpoena was issued to the ISP requesting the subscriber name and address for the IP Address at the times Image A, Image B, and Video A had been downloaded.

16. In response to the subpoena, the ISP revealed that at the time the files were downloaded, the IP Address was assigned to the Respondent’s home address in the name of the Respondent’s wife.

17. Based on the information, the Detective obtained a search and seizure warrant for the Respondent’s home address.

18. On or about August 21, 2014, police officers of the Crimes Against Children Unit served and executed the warrant at the Respondent’s home address.

19. During the execution of the warrant, the Respondent agreed to waive his Miranda rights and speak with the police officers. During a recorded interview, the Respondent admitted that he searches for and downloads child pornography from the internet. He advised that he saved his collection of child pornography to his tablet computer with a portable SD memory card, and to a desktop computer.

20. The Respondent stated that he has used BitTorrent file sharing software through the ISP for approximately four years, and that during that time he has not disabled the file sharing function that would prevent other users from accessing his collection of child pornography.

21. The Respondent further stated that he has been involved with child pornography for approximately 14 years, and that his sexual preference is for young girls aged 10-12. He admitted using search terms such as “young” and “pre-teen,” which he defined as 12 years old or younger. He described how his activities had evolved from simply looking at young girls to having an “obsession” with hardcore child pornography.

22. The Respondent denied he had had sexual contact with any children, including family members or clients. However, he admitted that he masturbates to child pornography and has met prostitutes for erotic massage and oral sex.

23. The police seized a tablet computer, a desktop computer, and numerous discs and media located in the Respondent’s private bedroom. Forensic evaluation of these computers revealed that the tablet computer used BitTorrent file sharing software with files containing child pornography. Child pornography files were also found on the desktop computer.

24. The police investigation would not have been possible but for the Respondent's distribution of child pornography to the Detective.

25. On or about August 21, 2014, the Respondent was arrested and charged with three counts of child pornography related offenses in the District Court of Maryland for Baltimore County.

Summary Suspension of License

26. Based on the Complaint and the ensuing investigation, the Board on or about September 16, 2014, issued an Order for Summary Suspension of the Respondent's license to practice graduate social work in the State of Maryland, pursuant to Md. Code Ann., State Gov't § 10-226(c), concluding that the public health, safety and welfare imperatively required emergency action.

Criminal Indictment and Conviction

27. The Respondent was formally indicted on four counts of child pornography related offenses in the Circuit Court for Baltimore County, Maryland, under Case Number 03-K-14-005036, on or about September 15, 2014.

28. Counts One, Two and Three, which are felony offenses, charged the Respondent with knowingly promoting, advertising, soliciting, distributing, or possessing with the intent to distribute any matter, visual representation, or performance that depicts, or in a manner that reflects the belief, or that is intended to cause another to believe, that the matter, visual representation, or performance depicts, a minor engaged as a subject in sadomasochistic abuse or sexual conduct, in violation of Md. Code Ann., Crim. Law § 11-207(a)(4). Count Four, which is a misdemeanor offense, charged the Respondent with knowingly possessing and intentionally retaining a film, videotape,

photograph, or other visual representation showing an actual child under the age of 16 years engaged as a subject of sadomasochistic abuse, sexual conduct, or in a state of sexual excitement, in violation of Md. Code Ann., Crim. Law § 11-208.

29. On or about April 29, 2015, the Respondent appeared before a circuit court judge in Baltimore County and entered a plea of guilty to Count One of the indictment. The judge sentenced the Respondent to ten years incarceration with all but five years suspended and ordered that he be registered as a Tier II Sex Offender. The Respondent was further ordered to be placed on supervised probation for five years upon his release from incarceration.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent's plea of guilty to and conviction for knowingly promoting, distributing and/or possessing with intent to distribute child pornography, in violation of Md. Code Ann., Crim. Law § 11-207(a)(4), constitute being convicted of and pleading guilty to a felony and a crime involving moral turpitude, in violation of Health Occ. II § 19-311(7).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 11th day of March, 2016, by the affirmative vote of a majority of the Board considering this case:

ORDERED that the Respondent **JAMES P. TINKER, II, LGSW'S** license, under License Number 17705, to practice graduate social work in the State of Maryland be and hereby is **REVOKED**; and it is further

ORDERED that the Respondent is prohibited from practicing graduate social work in the State of Maryland; and it is further

ORDERED that this Order is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Provisions §§ 4-101 *et seq.* (2014).



Mark Lannon, LCSW-C
Board Chair
State Board of Social Work Examiners

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Code Ann., Health Occ. II, § 19-313 (2014 Repl. Vol.), you have a right to take a direct judicial appeal. A Petition for Judicial Review must be filed within thirty (30) days of your receipt of this Order and shall be made as provided for judicial review of a final decision in the Md. Code Ann., State Gove't II, §§ 10-201 *et seq.* (2014 Repl. Vol.), and Title 7, Chapter 200 of the Maryland Rules.