

FRANK W. MCCREARY

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STATE BOARD OF

APPLICANT

\*

OCCUPATIONAL THERAPY

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### CONSENT AGREEMENT

The Maryland State Board of Occupational Therapy (the "Board") is charged with the responsibility of regulating the practice of Occupational Therapy. Mr. Frank W. McCreary (the Applicant) has applied for licensure with the Board pursuant to the Maryland Occupational Therapy Act (the "Act"), Md. Health Occ. ("H.O.") Code Ann. Code §§ 10-101 *et seq.* (2005). On or about November 18, 2011, the Board, in lieu of denying his licensure request, voted to offer Mr. McCreary this Consent Agreement (the "Agreement")

### BACKGROUND

On or about September 12, 2011, the Applicant submitted an Application for an Occupational Therapy Assistant license to the Board. The Board received the Application on or about September 13, 2011. On page one of the Application, in the section entitled, "Discipline," the Applicant answered "YES" to the following question: QUESTION 18(c): Are you or have you ever: been convicted of a felony?

The Applicant included copies of the court documents of his conviction as well as his explanation of the charges. The facts, taken from the Federal Order, are as follows:

## FINDINGS OF FACTS

1. The Department of Veterans Affairs (VA) was a department of the United States Government;

2. The VA obtained houses that were subject to foreclosure by lenders where the VA was the loan guarantor. The VA sold the houses to the public through local real estate agents. Prior to sale, the VA often did repair work to the houses;

3. The Applicant, Frank McCreary, was employed as a Realty Specialist with Real Estate Property Management Section of the Loan Guaranty Division of the VA Regional Office in Baltimore, Maryland. His duties included soliciting bids from and awarding contracts to contractors for repair work to the Department of Veterans Affairs (VA) owned houses;

4. Carmelo Vizzi was the sole owner of Carmelo Contracting, Inc., a home improvement business. Carmelo Contracting, Inc. was incorporated and licensed in the State of Maryland. Carmelo Contracting, Inc. bid on contracts offered by the VA involving repairs to houses subject to foreclosure on VA loans.

5. From in or about November 1999 and continuing to in or about January 2003, the exact dates being unknown, in the State and District of Maryland and elsewhere, Frank McCreary and Carmelo Vizzi, the defendants herein, did knowing and willfully combine, conspire, confederate and agree with each other and with others known and unknown to commit offenses against the United States, to wit: bribery of a public official in violation of 18 U.S.C. §201.

### Manrer and Means

6. It was part of the conspiracy that Frank McCreary told Carmelo Vizzi the lowest bid on repair jobs awarded pursuant to a sealed bidding process.

7. It was further part of the conspiracy that Carmelo Vizzi paid Frank McCreary between \$250 and \$500 in cash for each contract for a repair job awarded by Frank McCreary to Carmelo Contracting, Inc., pursuant to a sealed bidding process.

8. It was further part of the conspiracy that Carmelo Vizzi caused Carmelo Contracting, Inc. to issue checks to fictitious employees, would sign the fictitious name on the back of the checks and cash the checks to generate cash to pay bribes to Frank McCreary.

9. It was further part of the conspiracy that Frank McCreary would create fictitious job orders and send them to Carmelo Vizzi. Carmelo Vizzi would create fictitious invoices for the fictitious jobs and submit it to the VA for payment. Carmelo Vizzi would give Frank McCreary one third (1/3) of the payments from the fictitious jobs.

10. It was further part of the conspiracy that Frank McCreary would create fictitious invoices in the name Carmelo Contracting, Inc. and give them to Carmelo Vizzi. Carmelo Vizzi submitted the fictitious invoices to the VA for payment. Carmelo Vizzi would give Frank McCreary one third (1/3) of the payments from fictitious invoices.

### Overt Acts

11. On or about November 3, 1999, Carmelo Vizzi wrote a check to Frank McCreary drawn on First Union Bank account no. 4370277789 in the name of Carmelo Contracting, Inc. in the amount of \$1,300.

12. On or about November 29, 1999, Frank McCreary sent a facsimile from the VA to Carmelo Vizzi listing ten contracts awarded to Carmelo Contracting, Inc. and indicating on which contracts Carmelo Vizzi owed Frank McCreary money.

13. On or about December 20, 1999, Frank McCreary sent a facsimile from the VA to Carmelo Vizzi listing five contracts awarded to Carmelo Contracting, Inc. and indicating how much money Carmelo Vizzi owed for each contract

14. Mr. McCreary pleaded guilty to 1 count of Conspiracy to Bribe a Public Official in January of 2003 and was imprisoned for a total of twelve (12) months and one (1) day, beginning September 6, 2005. Upon release from imprisonment, Mr. McCreary was on supervised release for a term of two (2) years.

### AGREEMENT

Based upon the Background and Findings of Fact, it is this 28<sup>th</sup> day of November, 2011, by a quorum of the board considering this case:

**ORDERED** that the Applicant, Mr. Frank W. McCreary, be granted a license to practice as an Occupational Therapy Assistant in the State of Maryland under the following terms and conditions:

1. Mr. McCreary's license to practice occupational therapy is hereby placed on probation for **TWO (2) years**, subject to the following conditions:

a. The Applicant understands and agrees that he shall only provide occupational therapy in a supervised setting, subject to prior Board approval, for **TWO (2) YEARS**;

b. The Applicant shall take and pass an ethics course pre-approved by the Board and submit documentation of completion thereof to the Board within one (1) year.

c. The Applicant's Continuing Education Credits (CEUs) will be audited for the 2013 and 2014 renewal cycles.

d. The Applicant shall immediately notify his current occupational therapy employer of the probationary status of the Applicant's license and arrange for his current employer to submit, in writing to the Board, within ten (10) business days of the effective date of this Order, that they have reviewed this Order. If the Applicant changes employers during the probationary period, the Applicant shall notify that employer to submit, in writing to the Board, within ten (10) business days from the date of hire that they have reviewed this Order.

**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 Applicant has violated the Act or if the Applicant violates any conditions of this Order or of Probation, after providing the Applicant with notice and an opportunity for a hearing the Board may take further disciplinary action against the Applicant.

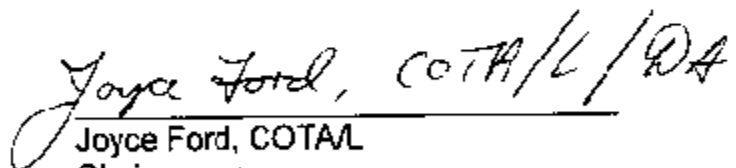
including suspension or revocation. The burden of proof for any action brought against the Applicant as a result of a breach of the conditions of the Order or of Probation should be on the Applicant to demonstrate compliance with the Order or conditions; and be it

**ORDERED** that the Applicant shall practice in accordance with the laws and regulations governing the practice of occupational therapy in Maryland; and be it further

**ORDERED** that, at the end of the Probationary period, the Applicant may petition the Board to be reinstated without any conditions or restrictions on his license, provided that he can demonstrate compliance with the conditions of this Order. Should the Applicant fail to demonstrate compliance, the Board may impose additional terms and conditions of Probation, as it deems necessary;

**ORDERED** that this document is a PUBLIC RECORD, pursuant to Md. Code Ann., State Gov't Article, § 10-611 *et seq.* (2009 Repl. Vol. And 2010 Supp.) and that the Board may also disclose same to any national reporting data bank that is mandated to report to.

11/28/11  
Date

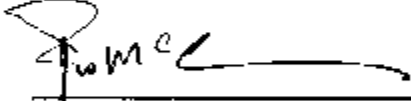
  
Joyce Ford, COTAL  
Chairperson  
Maryland State Board of  
Occupational Therapy Practice

**CONSENT OF FRANK W. MCCREARY**

I, **Frank W. McCreary**, O.T.A. Applicant, by affixing my signature hereto, acknowledge that:

1. I acknowledge that by failing to abide by the terms and conditions set forth in this Consent Agreement I may suffer disciplinary action, which may include suspension or revocation of my license to practice occupational therapy in Maryland.
2. I sign this Consent Order without reservation as my voluntary act and deed.

11 | 22 | 11  
Date

  
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Frank W. McCreary