

BEFORE THE WEST VIRGINIA BOARD OF DENTAL EXAMINERS

WEST VIRGINIA BOARD
OF DENTAL EXAMINERS,

Complainant,

CASE No.: 2009-DB-0052D

v.

ALAN K. VANCE, DDS

Respondent.

CONSENT DECREE AND ORDER

Now comes the West Virginia Board of Dental Examiners (hereinafter "Board") and Alan K. Vance, DDS (hereinafter "Respondent"), for the purpose of agreeing to disciplinary action to be taken against the Respondent by the Board.

WHEREAS, the parties have reached an understanding concerning the proper disposition of the matter in controversy, and the Board, approving such an agreement, does hereby Find and Order as follows:

FINDINGS OF FACT

1. That the Board is the State entity created by W. Va. Code § 30-4-1 *et seq.* and is empowered to regulate the practice of dentistry.
2. That the Respondent is a licensee of the Board, possessing License No. 2553 and is subject to the license requirement of the Board.

3. That the Respondent pled guilty to one count of income tax evasion in the United States District Court for the Southern District of West Virginia and a subsequent Judgment was entered on August 31, 2009, adjudicating him guilty of income tax evasion for the tax year 2003.

4. That the Respondent permitted an unlicensed individual in his office to perform procedures, which may only be performed by a licensed dentist or licensed dental hygienist in violation of W. Va. Code § 30-4-20(a)(8)(H) employing directly or indirectly, or directing or permitting any suspended or unlicensed person so employed, to perform operations of any kind or to treat lesions of the human teeth or jaws or correct malimposed formations thereof.

CONCLUSION OF LAW

1. That the Board has jurisdiction to take disciplinary action against the Respondent.

2. That pursuant to W. Va. Code § 30-4-1 *et seq.*, the Board may revoke, suspend reprimand a licensee or take other disciplinary action for violation of the rules and regulations of the Board.

3. The Respondent is a licensee of the West Virginia Board of Dental Examiners and is subject to license requirements of the Board.

4. Based on the investigation conducted along with the Respondent's acknowledgments of the foregoing facts, the Board finds that there is substantial evidence to believe that the Respondent has violated the Dental Practice Act, W. Va. Code § 30-4-1 *et seq.*

CONSENT OF LICENSEE

The Respondent by affixing his signature hereto, acknowledges the following:

1. Respondent has been given the opportunity to consult with counsel and executes this Consent Decree and Order voluntarily, freely, without compulsion or duress and mindful that it has legal consequences.

2. No person or entity has made any promise or given any inducement whatsoever to encourage Respondent to enter this Consent Decree and Order other than as set forth herein.

3. Respondent acknowledges that he is aware that he may pursue this matter through appropriate administrative and/or court proceedings, and is aware of his legal rights regarding this matter, but intelligently, knowingly and voluntarily waives such rights.

4. Respondent acknowledges that this Consent Decree and Order is a public document, available for inspection at any time by any member of the public under Chapter

29B *et seq.*, of the West Virginia Code, Freedom of Information Act, and may be reported to other governmental agencies, professional Boards or other organizations.

5. Respondent waives any defense of laches, statute of limitations, estoppel and waiver that he may have otherwise claimed as a condition of this Consent Decree and Order.

6. Respondent acknowledges that this Consent Decree and Order shall be presented to the Board as soon as practical but no later than the next scheduled meeting of the Board, with a recommendation for approval from the Complaint Committee.

7. Respondent consents to the entry of the following Order affecting his license in the State of West Virginia.

8. Respondent, by affixing his signature hereon, consents and agrees to the following terms and conditions.

ORDER

Based on the foregoing Findings of Facts and Conclusions of Law, it is by West Virginia Board of Dental Examiners, hereby ORDERED:

1. The Respondent's license to practice dentistry in the State of West Virginia is **SUSPENDED** for a period to run concurrent with the Respondent's federal incarceration for income tax evasion.

2. The Respondent shall be placed on Probation for a period of Five (5) years commencing upon his physical release from the Federal Correction Institution (FCI) in Morgantown, West Virginia.

3. The Respondent shall enroll in and successfully complete three (3) hours of ethics for each year of his probation (total of fifteen (15) hours). These courses shall be *pre-approved* by the Board and the final results shall be sent directly to the Board from the educational institution. Completion of these classes does not count as credit for regular continuing education hours required by law. The Respondent shall be responsible for all costs incurred for these courses.

4. The Respondent shall advise the Board of any change in office staff within 72 hours of such change.

5. The Board or its designee may conduct unannounced site inspections to the offices of the Respondent at any time the Board deems necessary. These inspections may include, but are not limited to, interviews with staff, review of staff duties and review of patient records. Said inspections shall be performed in a manner that is the least disruptive of the Petitioner's practice as possible. The Respondent shall be responsible for all costs that may be associated with any site inspection.

6. The suspension and the probation periods are conditioned upon Respondent's compliance with all the terms and conditions of the Consent Decree.

7. Should the Respondent engage in acts or practices outside the terms of this Consent Decree it may be deemed to constitute an immediate danger to the public, and, as such, the Board may suspend or revoke Respondent's license prior to hearing.

8. At the hearing to determine the permanence of such suspension or disciplinary action, if Respondent is found to have violated the terms of this Consent Decree, then the events giving rise to this Consent Decree shall also be considered in the determination of the kind and extent of sanctions to be subsequently imposed.

9. That the Respondent's failure to fully comply with the terms and conditions of this Consent Order hereby imposed shall be deemed a violation of Probation and of this Consent Order, and that if the Respondent violates any of the terms of this Consent Order, the Board may immediately suspend the Respondent's license.

10. The Respondent shall obey all laws of the United States, the State of West Virginia and its political subdivisions. The Respondent shall comply with the West Virginia Dental Practice Act and its rules and regulations.

11. The Respondent shall neither direct nor permit his employees to violate any provisions of the West Virginia Dental Practice Act or its rules and regulations.

12. The Respondent shall pay a fine in the amount of Ten Thousand Dollars (\$10,000.00) to be paid on or before December 31, 2010.

13. The Respondent shall reimburse the Board costs associated with this case in the amount Two Thousand Five Hundred Dollars (\$2,500.00) to be paid on or before December 31, 2010.

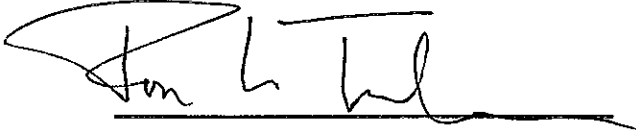
Entered this 27th day of May 2010.

West Virginia Board of
Dental Examiners:

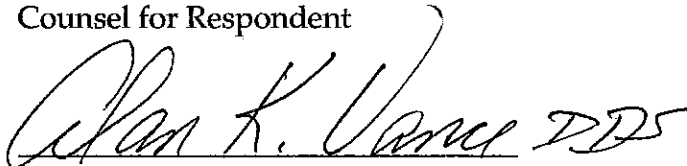


David G. Edwards, DDS
President

Reviewed and Agreed to by:



Ron L. Tucker (WV Bar # 3812)
310 Adams Street
Fairmont, West Virginia 26654-3104
Counsel for Respondent



Alan K. Vance, DDS
Respondent