

**BEFORE THE ALABAMA STATE BOARD
OF SOCIAL WORK EXAMINERS**

IN THE MATTER OF)
)
SUSAN E. WALLACE) **CASE NO. 11-4257B-08**
)
RESPONDENT.)
)

RECOMMENDATION OF ADMINISTRATIVE LAW JUDGE

ADMINISTRATIVE BACKGROUND

This matter came before the Alabama State Board of Social Work Examiners (hereinafter the “Board”) by a summons and complaint dated September 22, 2011, issued to Ms. Susan Wallace (hereinafter Ms. Wallace) concerning her license to practice as a licensed social worker, pursuant to § 34-30-5, Code of Ala. 1975, and the Alabama Administrative Procedures Act. Said summons and complaint was mailed to Ms. Wallace’s most recent addresses with the Board, which are P.O. Box 1014, Flomaton, Alabama 36441, and 1381 McBride Road, Century, Florida, 32535-2714. A hearing was held on May 10, 2011. The Board was present at the hearing and represented by Attorney Ellen Leonard. Ms. Wallace failed to appear. At all times relevant to the administrative complaint, Ms. Wallace was a licensed social worker with the Board.

FINDINGS OF FACT

The legal charge is based upon the Board’s Administrative Code and Code of Ethics, and was clearly listed in the formal administrative complaint dated September 22, 2011. This complaint related to Ms. Wallace’s use of a client’s EBT (electronic benefits card). More specifically, the allegations against Ms. Wallace are as follows:

1. While licensed by the Board to practice social work, Ms. Wallace worked as a social worker at the Department of Human Resources (hereinafter DHR).
2. While working as a Child Abuse and Neglect Investigator for DHR, Ms. Wallace obtained an EBT card, which she believed belonged to her DHR client, R.T.
3. Ms. Wallace used the card to make several purchases in violation of DHR policy.
4. Ms. Lynn Barnes, County Director of the Baldwin County DHR, filed a formal complaint with the Board on June 13, 2011, against Ms. Wallace regarding the use of the EBT card. (Board's Exhibit 1.)
5. Ms. Wallace, on October 17, 2011, responded to the Complaint by denying that she used the EBT card for personal use. (Board's Exhibit 2.)
6. Ms. Wallace's letter went on to state that she used the EBT card, but only to help R.T. because R.T. was unable to go to the store. (Board's Exhibit 1.)
7. On September 9, 2011, Mr. James Dupree, an investigator for the Board, submitted an Investigation Report. (Board's Exhibit 3.) Mr. Dupree's report stated that Ms. Wallace did use the card and that Ms. Wallace believed the card belonged to R.T. (Board's Exhibit 3.)
8. Mr. Dupree's report also stated that Ms. Wallace, during an interview, again denied she used the card for herself and used it for R.T. (Board's Exhibit 3.) Mr. Dupree's investigation determined that the EBT card belonged to a person that was incarcerated and not to R.T., the mother of the person incarcerated. (Board's Exhibit 3.) Ms. Wallace further stated that she should have paid more attention to who actually owned the EBT card. (Board's Exhibit 3.)
9. The Board sent another Notice of Hearing with a copy of the Complaint to Ms. Wallace at her Florida address on March 28, 2012. (Board's Exhibit 5.) That notice was marked as unclaimed. (Board's Exhibit 5.)

CONCLUSIONS OF LAW

The Board has the authority to discipline its licensees pursuant to §34-30-4, Code of Alabama 1975. More particularly the Board may revoke any license upon proof that the person has engaged in unprofessional conduct. Sections 34-30-4(a)6 and 34-30-4(b) provide as follows:

- (a) The State Board of Social Work Examiners, after a hearing, may refuse to renew, may suspend or *may* revoke any license issued under this chapter upon proof that the person has engaged in unprofessional conduct within the last five years, including, but not limited to:
- (6) Being found guilty *of* unprofessional conduct by the rules established by the Board of Social Work Examiners.

The Board's Administrative Code sets out several sections concerning the inappropriate relationship. The relevant sections are as follows:

Section 850-X-9.01(1)9(a)2 The social worker shall not participate in, condone, or be associated with the dishonesty, fraud, deceit, misrepresentation, or criminal activity.; and

Section 850-X-10-.01(2)(d) Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public.

See Alabama Board of Social Work Examiners Administrative Code, §§ 850-X-9.01(1)(a)2 and 850-X-10-.01(2)(d). The Board presented uncontested evidence regarding Ms. Wallace's use of the EBT card. Ms. Wallace also admitted to using the EBT in her letter to the board. (Board's Exhibit 2.) Moreover, Ms. Wallace also admitted that she should have paid more attention to who owned the EBT card. (Board's Exhibit 3.)

RECOMMENDATION

The uncontested evidence presented against Ms. Wallace constitutes a violation of § 34-30-4(a)6, Code of Alabama 1975 and Rules §§ 850-X-9.01(1)(a)2 and 850-X-10-.01(2)(d), Administrative Code, Alabama Board of Social Work Examiners.

Based on the facts and law as presented above, I hereby find that the revocation of Ms. Wallace's license to engage in the practice of social work in the State of Alabama is justified.

Done this 12th day of July. 2012.

Cleophus (J.R.) Gaines, Jr., Esq.
Administrative Law Judge

July 25, 2012

Ms. Susan E. Wallace
1381 McBride Road
Century, Florida 32535

Dear Ms. Wallace:

The recommendation of the Hearing Officer pertaining to your case was reviewed during the Board meeting on Friday, July 13, 2012. The Board voted to accept the recommendation of the Hearing Officer which was approved. A copy of the recommendation has been attached to this letter for your reference.

Effective as of the date of this letter your social work license number 4257B has been **REVOKED**. According to Section 34-30-5 Disciplinary proceedings – Procedures. Your rights are outlined below:

Section 34-30-5 (5) Any person affected by the action of the board in refusing his application or suspending or revoking his license, or any other action of the board, may appeal the action of the board by filing a petition within 30 days thereafter in the circuit court in the county where the person resides or in the Circuit Court of Montgomery County, Alabama, and the court is vested with jurisdiction and it shall be the duty of the court to set the matter for hearing upon 10 days' written notice to the board and the attorney representing the board. The court in which the petition of appeal is filed shall determine whether or not a cancellation or suspension of a license shall be abated until the hearing shall have been consummated with final judgment thereof or whether any other action of the board should be suspended pending hearing, and enter its order accordingly, which shall be operative when served upon the board, and the court shall provide the attorney representing the board with a copy of the petition and order. The board shall be represented in such appeals by the district attorney of the county or the Attorney General, or any of their assistants. The board shall initially determine all facts, but the court, upon appeal, shall set aside the determination of the board if the board's determination:

a. Is not based upon substantial evidence upon the entire record;

- b. Is arbitrary or capricious;
- c. Is in violation of statutory requirements; or
- d. Was made without affording the licensee or applicant due process of law.

The Board is required to report all disciplinary measures imposed, formally or informally, and the Board has no authority to waive this requirement. This disciplinary infraction will be reported by the Board as unprofessional conduct in violation of the *Administrative Code* § 850-X-9.01(1)(a)2 and § 850-X-10.01(2)(d) .

Should you have any questions you may reach me at the telephone number or the address listed above.

Sincerely,

Rebecca Goodson
Executive Director