

MAR 14 2002

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BOARD OF PHARMACY

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF PHARMACY

IN THE MATTER OF THE SUSPENSION  
OR REVOCATION OF THE LICENSE OF

Administrative Action

MICHAEL STAVITSKI

FINAL ORDER

TO PRACTICE PHARMACY IN THE  
STATE OF NEW JERSEY

and

IN THE MATTER OF THE SUSPENSION  
OR REVOCATION OF THE PERMITS OF

AVON PHARMACY, SPRING  
LAKE HEIGHTS SUPER PHARMACY,  
BELMAR HOMETOWN PHARMACY and  
WALL PHARMACY

TO OPERATE A PHARMACY  
IN NEW JERSEY

This matter was opened to the New Jersey State Board of Pharmacy upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made;

FINDINGS OF FACT

1. Respondent Stavitski is a pharmacist in the State of New Jersey and has been a licensee at all times relevant hereto.

2. Avon Pharmacy, Spring Lake Heights Super Pharmacy, Belmar Hometown Pharmacy and Wall Pharmacy were permit holders at all times relevant hereto. Respondent currently is the sole equity holder at Avon and Wall and holds a 2% equity ownership in Belmar Hometown and Spring Lake Heights Super Pharmacies. A 2001 correspondence to the Board regarding all four pharmacies' hours of operation contained respondent's name and the title "president and owner."

3. On October 5, 2001 respondent pled guilty to the crime of Conspiracy to Defraud the United States and to purchase drug samples in violation of law in the United States District Court, District of New Jersey. Specifically, from 1994 through 1997, respondent pled to knowingly purchasing diverted drug samples from other persons for a discounted price and thereafter selling the samples to the public as prescription drugs from Avon Pharmacy. For the most part, the drugs did not contain the control number, the expiration date and adequate labeling.

4. Sentencing will occur no sooner than March of 2002.

#### CONCLUSIONS OF LAW

1. The above plea of guilt provides grounds for the suspension of his license to practice pharmacy and his right to operate a pharmacy in New Jersey pursuant to N.J.S.A. 45:1-21(f) in that the crime of which respondent has pled guilty to is one of

moral turpitude and/or relates adversely to the practice of pharmacy.

Based on the foregoing findings and conclusions, a Provisional Order of Discipline suspending respondent's license to practice pharmacy and to operate a pharmacy in the State of New Jersey was entered on January 10, 2002 and a copy served on respondent. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30<sup>th</sup> business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor. The respondent submitted a letter requesting correction and/or modification of the preliminary findings of fact and conclusions of law and as well as a copy of a letter from the U.S. Attorney's Office noticing the Board of Mr. Stavitski's cooperation and assistance in further prosecution in the criminal matter.

The Board has considered those submissions and has modified the terms of the Provisional Order. However, the Board is mindful that the unlawful conduct occurred in respondent's capacity as manager of the store and not in his capacity solely as a

any practice in this State prior to said appearance shall constitute grounds for a charge of unlicensed practice. In addition, the Board reserves the right to place restrictions on respondent's practice should his license be reinstated.

3. The within Order shall be subject to finalization by the Board at 5:00 p.m. on the 30<sup>th</sup> business day following entry hereof unless respondent requests a modification or dismissal of the above stated Findings of Fact or Conclusions of Law by:

(a) Submitting a written request for modification or dismissal to, Deborah Whipple, Executive Director, State Board of Pharmacy, 124 Halsey Street, Sixth Floor, Newark, New Jersey 07101.

(b) Setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed.

(c) Submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor or offered in mitigation of penalty.

4. Any submissions will be reviewed by the Board, and the Board will thereafter determine whether further proceedings are necessary. If no material discrepancies are raised through a supplemental submission during the thirty-day period, or if the Board is not persuaded that submitted materials merit further consideration, a Final Order of Discipline will be entered.

its designee, and only when the designated R.P. in charge is present and on duty on the premises.

5. Respondent shall immediately refrain from engaging in any operation of the four (4) above-captioned pharmacies, including but not limited to, advertising and/or marketing, purchasing, managing, or conducting any business with insurers or third party payors on behalf of the pharmacies, on or off the permitted premises.

6. Respondent shall not be a permit holder in the State of New Jersey for five (5) years from the date of entry of this Order.

7. The permits of Spring Lake Heights Super Pharmacy and Belmar Hometown Pharmacy shall be placed on probationary status for the duration of respondent's licensure suspension. Should respondent violate any of the terms of the within Order, the Board may on short notice, hold proceedings to actively suspend the permits.

NEW JERSEY STATE BOARD OF PHARMACY

By:   
Anthony Alexander, R.P., President