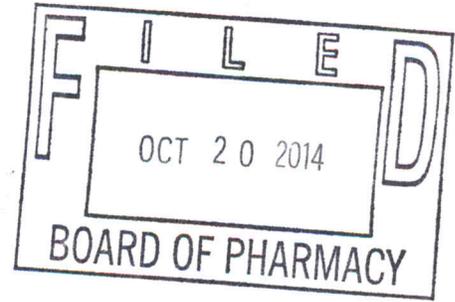


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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PHARMACY

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE TO
PRACTICE PHARMACY OF

VLADIMIR KLEYMAN
License No.: 28RI02503500

AND THE SUSPENSION OR REVOCATION
OF THE PHARMACY PERMIT OF

PRESCRIPTIONS R US, LLC
Pharm. Permit No.: 28RS00702300

Administrative Action

**ADMINISTRATIVE COMPLAINT
VERIFIED AS TO
COUNT I AND COUNT II**

JOHN J. HOFFMAN, Attorney General of New Jersey, by Joshua M. Bengal, Deputy Attorney General, with offices located at 124 Halsey Street, Fifth Floor, P.O. Box 45029, Newark, New Jersey, 07101 by way of Verified Complaint, says:

GENERAL ALLEGATIONS

1. Complainant, Attorney General of New Jersey, is charged with enforcing the laws of the State of New Jersey, pursuant to N.J.S.A. 52:17A-4(h), and is empowered to initiate

administrative disciplinary proceedings against holders of licenses, permits and registrations issued by the New Jersey State Board of Pharmacy ("Board") pursuant to N.J.S.A. 45:1-14 et seq.

2. The Board is charged with the duty and responsibility of regulating the practice of pharmacy and all permitted pharmacies in the State of New Jersey pursuant to N.J.S.A. 45:1-14 et seq. and N.J.S.A. 45:14-40 et seq.

3. Pursuant to N.J.S.A. 45:1-21, 45:1-22, and 45:1-49, the Board may enter an order of temporary suspension, pending a plenary hearing, upon a duly verified application which demonstrates a clear and imminent danger to the public health, safety and welfare.

4. At all times relevant hereto, Vladimir Kleyman held a license to practice pharmacy in the State of New Jersey under license number 28RI02503500. Mr. Kleyman's license is currently active.

5. At all times relevant hereto, Prescriptions R Us, LLC ("PRU") held State of New Jersey pharmacy permit number 28RS00702300. PRU's permit is currently active. (Certification of James Mielo, ¶6.)

6. Vladimir Kleyman owns 49% of PRU and is PRU's Registered Pharmacist in Charge. Mr. Kleyman's wife, Tatyana Kleyman, owns the other 51% of PRU.

7. Pursuant to N.J.S.A. 45:1-45 et seq., beginning on September 1, 2011, all pharmacies holding permits in New Jersey were required to report to the Prescription Monitoring Program ("PMP") all CDS and Human Growth Hormone ("HGH") dispensed to consumers. (Mielo Cert., ¶4.)

8. New Jersey's Prescription Monitoring Program, a critical element of the State's fight against epidemic prescription drug abuse, is one of the most effective tools doctors and pharmacists can use to protect every patient who has prescribed and obtains CDS.

9. Pursuant to N.J.S.A. 45:1-45 et seq., reporting is an ongoing requirement.

10. Between September 1, 2011 and September 14, 2014, reports of all CDS and HGH dispensed to customers were required to be made to the PMP every two weeks. (Mielo Cert., ¶4.)

COUNT I
PMP Reporting Violations

11. The allegations contained in the General Allegations are repeated and realleged as if set forth at length herein.

12. Between September 1, 2011 and March 27, 2014, Mr. Kleyman and PRU filled thousands of prescriptions for CDS for patients.

13. During this period, Mr. Kleyman and PRU did not report a single instance of such dispensing to the PMP. (Mielo Cert., ¶12.)

14. For instance, on various dates including but not limited to the following, Mr. Kleyman and PRU dispensed schedule II, III, and IV CDS as noted:

- a. March 8, 2012: Oxycodone (Certification of Vladimir Kleyman, R.P.I.C., AG 95.)
- b. March 27, 2012 - Percocet (Kleyman Cert., AG 95.)
- c. June 1, 2012 - Concerta (Kleyman Cert., AG 93.)
- d. July 16, 2012 - Percocet (Kleyman Cert., AG 96.)
- e. November 13, 2012 - Oxycodone (Kleyman Cert., AG 94.)
- f. February 14, 2013 - Oxycodone (Kleyman Cert., AG 98.)
- g. March 1, 2013 - Oxycodone (Kleyman Cert., AG 102.)
- h. March 5, 2013 - Oxycodone (Patients M.S. and S.S.) (Kleyman Cert., AG 101, 100.)
- i. March 6, 2013 - Oxycodone (Kleyman Cert., AG 101.)
- j. March 8, 2013 - Oxycodone (Kleyman Cert., AG 95.)
- k. April 2, 2013 - Oxycodone (Kleyman Cert., AG 100.)

- l. April 15, 2013 - Concerta (Kleyman Cert., AG 97.)
- m. July 24, 2013 - Concerta (Kleyman Cert., AG 97.)
- n. November 10, 2013: Methylphenidate (Kleyman Cert., AG 39.)
- o. November 12, 2013: Testosterone (Kleyman Cert., AG 70.)
- p. November 21, 2013 - Percocet (Kleyman Cert., AG 99.)
- q. December 15, 2013: Adderall (Kleyman Cert., AG 11.)
- r. December 15, 16, 17, 2013: Ketamine (Kleyman Cert., AG 12, 16, 23.)
- s. December 18, 2013: Methylphenidate (Kleyman Cert., AG 26.)
- t. January 13, 2014 - Adderall (Kleyman Cert., AG 98.)
- u. March 5, 2014: Alprazolam (Kleyman Cert., AG 38.)

15. The CDS listed above represent just a small portion of the CDS noted in the PRU dispensing logs obtained by State investigators. (See Kleyman Cert., AG 11-91.) And the dispensing logs obtained by State investigators cover only two weeks of the multi-year period when PRU dispensed CDS but failed to make reports to the PMP. (Kleyman Cert., AG 8.) This

indicates the staggering number of CDS prescriptions Mr. Kleyman and PRU dispensed but failed to report to the PMP.

16. Because PRU was required to report to the PMP every two weeks, each two week period in which PRU failed to make such reports represents a separate act in violation of N.J.S.A. 45:1-45 et seq. and N.J.S.A. 45:1-21.

17. By failing to make reports to the PMP, Mr. Kleyman and PRU denied treating physicians the ability to accurately determine what CDS their patients were obtaining; Mr. Kleyman and PRU prevented other pharmacies from checking for harmful drug interactions PRU clientele might suffer; and Mr. Kleyman and PRU evaded regulatory scrutiny of CDS they issued. All these effects put PRU's clientele at substantially increased risk of harm.

18. Mr. Kleyman's and PRU'S blatant, willful, two and a half-year course of conduct palpably demonstrates that retention of its permit to operate as a pharmacy in New Jersey presents a clear and imminent danger to the public health, safety and welfare warranting the immediate temporary suspension of its pharmacy permit and CDS registration pursuant to N.J.S.A. 45:1-22.

COUNT II
Violations of Pharmacy Board Rules & Regulations

19. The allegations contained in the General Allegations and Count I are repeated and realleged as if set forth at length herein.

20. On March 6, 2014, Division of Consumer Affairs - Enforcement Bureau Investigator Kathleen Cefalu travelled to 301 Madison Avenue, Lakewood, New Jersey, which is PRU's address of record, in order to conduct a pharmacy inspection. (Certification of Kathleen Cefalu, ¶5.)

21. Once she arrived, Investigator Cefalu placed a telephone call to Vladimir Kleyman, part owner and Registered Pharmacist in Charge of PRU. (Cefalu Cert., ¶6.)

22. Mr. Kleyman answered the phone. When asked whether PRU was open stated that it was. (Cefalu Cert., ¶7.)

23. However, neither Mr. Kleyman nor any other person was then present at 301 Madison Avenue even though Inv. Cefalu was present at the facility during the operating hours posted on the pharmacy's door. (Cefalu Cert., ¶5, 8, 9.)

24. Although PRU is a retail pharmacy located on the second floor of a professional building, Mr. Kleyman informed Inv. Cefalu and Inv. Cefalu observed that the main door to PRU is locked even during business hours. (Cefalu Cert., ¶10.)

25. As Mr. Kleyman told Inv. Cefalu and as she observed during the inspection, customers must ring a doorbell to gain access. (Cefalu Cert., ¶10.)

26. Once customers have rung PRU's doorbell, Mr. Kleyman visualizes the customer on a video surveillance system. (Cefalu Cert., ¶10.)

27. As Mr. Kleyman told Inv. Cefalu, Mr. Kleyman sometimes lets customers enter PRU's facility in order to transact business. (Cefalu Cert., ¶10.)

28. As Mr. Kleyman told Inv. Cefalu during the inspection, other times, Mr. Kleyman hangs a small zippered bag out a window by a metal chain and lowers it to the customer at ground level. (Cefalu Cert., ¶10.)

29. Customers place prescriptions and payments in the bag, which Mr. Kleyman then lifts up to PRU's facility.

30. Mr. Kleyman then puts the corresponding prescription in the zippered bag, returns to the window, and lowers the bag to the patient. (Cefalu Cert., ¶10.)

31. During the pharmacy inspection Investigator Cefalu conducted on March 6, 2014, she identified 63 bottles of medication that were expired, misbranded or improperly stored, all on the shelves dedicated to active stock. (Cefalu Cert., ¶11.)

32. Mr. Kleyman was not able to provide required inventory logs of stock medications. (Cefalu Cert., ¶12, 13f.)

33. Mr. Kleyman committed numerous prescription-filling errors, as identified in documents inspected on March 6, 2014, including the following:

a. Mr. Kleyman filled multiple prescriptions for Oxycodone 30 mg short a day's supply. (Cefalu Cert., ¶13a.)

b. Mr. Kleyman mislabeled prescriptions he had filled. (Cefalu Cert., ¶13b.)

c. Mr. Kleyman failed to wear proper identification. (Cefalu Cert., ¶13c.)

d. Mr. Kleyman failed to keep the dispensing area clean. (Cefalu Cert., ¶13d.)

e. Mr. Kleyman failed to keep the pharmacy open for the required number of hours per week. (Cefalu Cert., ¶13e.)

34. Mr. Kleyman admitted to Inv. Cefalu that between January 9, 2014, when Federal Bureau of Investigation agents served a search warrant and collected Mr. Kleyman's medication inventory, and March 6, 2014, he continually conducted business without knowledge or records of PRU's medication inventory. (Cefalu Cert., ¶14.)

35. As he admitted to Inv. Cefalu, Mr. Kleyman also closed the pharmacy in early 2014 without notifying the Board. (Cefalu Cert., ¶15.)

36. As the Registered Pharmacist in Charge and part owner of PRU, Mr. Kleyman bears responsibility to comply with Board regulations pursuant to N.J.A.C. 13:39-4.18.

37. Mr. Kleyman's failure to keep PRU either clearly open or clearly closed constitutes a failure to comply with the operating hour requirements codified in N.J.A.C. 13:39-4.12. By failing to maintain entrances that are easily and safely accessible by the public, Mr. Kleyman has violated N.J.A.C. 13:39-5.2.

38. By failing to interact face to face with customers, Mr. Kleyman cannot effectively counsel them in violation of N.J.A.C. 13:39-7.21. By prohibiting some customers from entering PRU, Mr. Kleyman has committed professional misconduct as evidenced by N.J.A.C. 13:39-3.1 and -4.3, which require the prominent posting of an individual's license in the principal place of business.

39. By maintaining misbranded medication on shelves, by incorrectly filling and mislabeling prescriptions, Mr. Kleyman has violated N.J.A.C. 13:39-7.12.

40. By violating the regulations and statues referenced above, PRU's and Mr. Kleyman's conduct also violated N.J.S.A. 45:1-21(c), (d), (e), and (h).

41. Mr. Kleyman and PRU's myriad violations described above demonstrate a systemic and utter failure to conduct business in a manner that complies with Board regulations, which are designed to protect the public from harm.

42. Mr. Kleyman's conduct palpably demonstrates that retention of his license to practice pharmacy in New Jersey presents a clear and imminent danger to the public health, safety and welfare warranting the immediate temporary suspension of his license pursuant to N.J.S.A. 45:1-22.

43. PRU'S and Mr. Kleyman's conduct palpably demonstrates that retention of PRU's permit to operate as a pharmacy to dispense CDS in New Jersey presents a clear and imminent danger to the public health, safety and welfare warranting the immediate temporary suspension of its pharmacy permit pursuant to N.J.S.A. 45:1-22.

COUNT III

Mr. Kleyman's guilty plea to bribing a physician and committing health care fraud

44. On or about October 14, 2014, federal prosecutors filed in the United States District Court for the District of New Jersey an Information alleging that Mr. Kleyman committed

Conspiracy to Pay Kickbacks and Commit Health Care Fraud in violation of 18 U.S.C. § 371.

45. According to the filed Information, Mr. Kleyman conspired to and did pay tens of thousands of dollars in kickbacks and bribes to physicians in order to induce them to make referrals of prescriptions for patients to PRU.

46. The prescriptions were for a pain cream that Mr. Kleyman had compounded. That pain cream contained ketamine, a Schedule III CDS.

47. Mr. Kleyman then billed Medicare, Medicaid and private health care insurance companies for the pain cream he dispensed from PRU to customers, and also misrepresented the nature and amount of the pain cream he dispensed, as well as the frequency of the dispensing, thereby defrauding those payors of hundreds of thousands of dollars.

48. On August 22, 2014, Mr. Kleyman signed a plea agreement with federal prosecutors resolving the filed Information and requiring him to forfeit all traceable illegally obtained funds.

49. On or about October 14, 2014, Mr. Kleyman pled guilty at a hearing to bribing a physician in violation of 42 U.S.C. § 1320a-7b(b)(2)(A) and committing health care fraud in violation of 18 U.S.C. § 1347, all in violation of 18 U.S.C. § 371. Mr. Kleyman admitted in open court to knowingly committing insurance

fraud, billing and obtain reimbursement for items not dispensed, and falsifying the quantity and dosages of medications dispensed to support fraudulent billing to insurance carriers.

50. Violations of these statutes carry a maximum prison sentence of five years and a maximum monetary penalty of the greatest of \$250,000, twice the gross amount of Mr. Kleyman's pecuniary gain, or twice the gross amount of pecuniary loss by victims.

51. Mr. Kleyman's sentencing is scheduled for January 20, 2015.

52. Mr. Kleyman's conduct as admitted during his plea hearing, constitutes engagement in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense in violation of N.J.S.A. 45:1-21(b); professional or occupational misconduct within the meaning of N.J.S.A. 45:1-21(e); engaging in acts constituting any crime or offense involving moral turpitude or relating adversely to the activity regulated by the Board in violation of N.J.S.A. 45:1-21(f). Mr. Kleyman's conduct demonstrates a lack of good moral character, maintenance of which is a continuing prerequisite under N.J.S.A. 45:14-50(c) and N.J.A.C. 13:39-2.1(e)(6) for holding a license to practice pharmacy in the state of New Jersey. By violating N.J.S.A. 45:14-50(c) and N.J.A.C. 13:39-2.1(e)(6), Mr. Kleyman has thus violated N.J.S.A. 45:1-21(h),

which requires compliance with the provisions of any act or regulation administered by the Board.

WHEREFORE, the Attorney General of New Jersey demands the entry of an order against Respondents Vladimir Kleyman and Prescriptions R Us, LLC as follows:

1. Finding that each of Respondents' acts, practices or omissions constitutes multiple and separate instances of unlawful conduct;

2. Temporarily suspending Respondent Kleyman's license to practice pharmacy in the State of New Jersey pending the disposition of a plenary hearing on this Verified Administrative Complaint;

3. Temporarily suspending Respondent PRU's permit to operate as a pharmacy in New Jersey pending the disposition of a plenary hearing on this Verified Administrative Complaint;

4. Suspending or revoking both Respondents' license and permit to operate as a pharmacy in New Jersey following a plenary hearing;

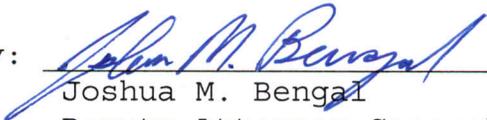
5. Assessing civil penalties against Respondents for each and every separate unlawful act as set forth in the counts above, pursuant to N.J.S.A. 45:1-25 and N.J.S.A. 45:1-49;

6. Requiring Respondents to pay costs, including investigative costs, attorney's fees and costs, expert and fact

witness fees and costs, costs of trial, and transcript costs, pursuant to N.J.S.A. 45:1-25; and

7. Ordering such other and further relief as the Board of Pharmacy shall deem just and appropriate under the circumstances.

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY

By: 
Joshua M. Bengal
Deputy Attorney General

Dated: October 17, 2014