

IN THE MATTER OF	*	BEFORE THE
CALVIN SCOTT & COMPANY, INC.	*	STATE BOARD OF
RESPONDENT-CORPROATION	*	PHARMACY
	*	CASE NO.: PI 11-115

* * * * *

FINAL CONSENT ORDER

The State Board of Pharmacy (“the Board”) charged Calvin Scott & Company, Inc., (the “Respondent-Corporation”), with violating certain provisions of the Maryland Pharmacy Act, (“the Act”) Md. Health Occ. Code Ann., (“H. O.”) §§ 12-101 *et seq.* (Repl. Vol. 2009). The pertinent provisions state:

H.O. § 12-6C-03.

(a) A wholesale distributor shall hold a permit issued by the Board before the wholesale distributor engages in wholesale distribution in the State.

H.O. § 12-6C-11. Violations; penalties.

(a) *Fine.* – (1) If a person knowingly violates any provisions of this subtitle or any regulation adopted under this subtitle, the Board may impose a fine not to exceed \$500,000.

FINDINGS OF FACT

The Board finds that:

1. At all times relevant herein, the Respondent- Corporation was and is not authorized to engage in wholesale distribution in the State of Maryland.
2. The Respondent-Corporation does not hold a wholesale distributor permit issued in the State of Maryland.

3. The Respondent-Corporation is located in Albuquerque, New Mexico.
4. At all relevant hereto, Samuel T. Poxon owned and operated the Respondent-Corporation.
5. Between December 2009 and August 2011, while conducting routine inspections pursuant to Code Md. Regs. tit. 10 § 13.01.04, the Maryland Division of Drug Control ("Drug Control") discovered that the Respondent-Corporation was distributing various repackaged prescription drugs to physicians' offices in Maryland, without a wholesale distributor permit.
6. After learning about Drug Control's inspection results, the Board issued a *subpoena duces tecum* to the physicians listed in Drug Control inspection reports, requesting invoices relating to the purchase of repackaged prescription drugs.
7. In response to the Board's subpoena, Dr. A, a physician, who is licensed to practice medicine in the State of Maryland, provided invoices for the period between December 2009 and June 2011¹.
8. The invoices provided by Dr. A showed that on approximately seven (7) occasions, between May 2010 and August 2011, the Respondent-Corporation distributed Phentermine HCL 15 mg Phentermine HCL 37.5 mg, and Phentermine 30 mg.
9. In response to the Board's subpoena, Dr. B, a physician, who is licensed to practice medicine in the State of Maryland, provided invoices for the period between January 2010 and August 2011.
10. The invoices provided by Dr. B showed that on approximately eighty (80) occasions between January 2010 and August 2011, the Respondent-Corporation

¹ The names of the healthcare providers have been omitted in order to protect their identity.

distributed Phentermine HCL 37.5mg, Phentermine HCL 30mg, Phendimetrazine 35mg, Triamterene w/Hydrochlorothiazide 37.5 mg, Diethylpropion 75 mg, hCG Chronic Gonadotropin 10 mil vials, and Topiramate 25mg.

11. By distributing repackage prescription drugs to physicians' offices in the State of Maryland, without a wholesale distributor permit, the Respondent-Corporation violated the Act.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes that the Respondent violated H.O. §§ 12-6C-03(a) and/or 12-6C-11.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 15TH day of MAY 2013, by a majority of the Board hereby:

ORDERED that the Respondent-Corporation shall pay a fine in the amount of twenty-five thousand dollars (\$25,000). The fine is payable to the Maryland Board of Pharmacy no later than 90 (ninety) days from the date that this Order is signed by the Board; and it is further

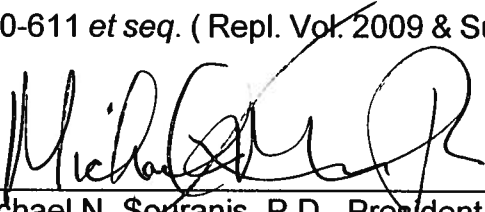
ORDERED that the Respondent-Corporation shall not distribute prescription drugs in the Maryland without a wholesale distributor permit; and it is further

ORDERED that Respondent shall be responsible for all costs incurred under this Order; and it is further

ORDERED that the effective date of this Order is the date that it is signed by the Board; and it is further

ORDERED that this document constitutes a formal disciplinary action of the State Board of Pharmacy and is therefore a public document for purposes of public disclosure, pursuant to Md. State Govt. Code Ann. §§ 10-611 *et seq.* (Repl. Vol. 2009 & Supp.2012).

MAY 15, 2013
Date



Michael N. Souranis, P.D., President
Maryland Board of Pharmacy

CONSENT OF DEBORAH PADILLA AND DIANE PALM, OWNERS OF CALVIN SCOTT & COMPANY, INC .

I, Deborah Padilla and I, Diane Palm by affixing our signature hereto, acknowledge that:

1. We are represented by Dana K. Schultz, Esquire.
2. We are aware that we are entitled to a formal evidentiary hearing before the Board, pursuant to Md. Health Occ. Code Ann. § 12-315 (Repl. Vol. 2009) and Md. State Govt. Code Ann. §§ 10-201 *et seq.* (Repl. Vol. 2009).
3. We acknowledge the validity and enforceability of this Consent Order as if entered after a formal evidentiary hearing in which we would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on our own behalf, and to all other substantive and procedural protections provided by law. We are waiving those procedural and substantive protections.
4. We voluntarily enter into and consent to the foregoing findings of fact, conclusions of law, and order and agree to abide by the terms and conditions set

forth in this Consent Order, as a resolution of the Board's case, based on the findings set forth herein.

5. We waive our right to contest the findings of fact and conclusions of law, and we waive our right to a full evidentiary hearing, and any right to appeal this Consent Order as set forth in Md. Health Occ. Code Ann. § 4-319 (Rep. Vol. 2009) and Md. State Govt. Code Ann. §§ 10-201 *et seq.* (Rep. Vol. 2009).

6. We acknowledge that by failing to abide by the terms and conditions set forth in this Consent Order, and, following proper procedures, we may be subject to disciplinary action.

7. We sign this consent order, without reservation, as our voluntary act and deed. We acknowledge that we fully understand and comprehend the language, meaning, and terms of this Consent Order.

4-9-13

Date

Deborah Padilla

Deborah Padilla
Owner of Calvin Scott & Company, Inc.

4-8-13

Date

Diane Palm

Diane Palm
Owner of Calvin Scott & Company, Inc.

ACKNOWLEDGMENT

State of California
County of Orange)

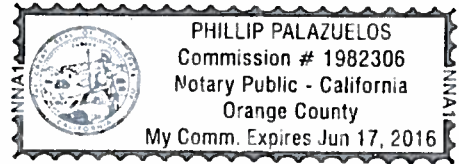
On April 8, 2013 before me, Phillip Palazuelos notary public
(insert name and title of the officer)

personally appeared Diane Palm
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Handwritten Signature] (Seal)



DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

(Additional information)

NOTARY

STATE OF New Mexico

CITY/COUNTY OF Santa Fe

I hereby certify that on this 9 day of April, 2013, before me, a Notary Public, personally appeared Deborah Padilla and Diane Palm owners of the Calvin Scott & Company Inc., made oath in due form of law that signing the foregoing Consent Order was a voluntary act and deed.

AS WITNESS my hand and Notarial Seal.


Notary Public

My Commission Expires: July 3, 2016

SEE ATTACHED
ACKNOWLEDGMENT

