

NC 1/94

IN THE MATTER OF

* BEFORE THE

JULIAN I. MIDEN

* MARYLAND STATE

Respondent

* BOARD OF

LICENSE NO. 5139

* PHARMACY

* * * * *

ORDER FOR SUMMARY SUSPENSION
OF PHARMACIST LICENSE

Based upon the information received by the State Board of Pharmacy (the "Board") regarding Julian I. Miden (the "Respondent"), the Board has reason to believe that the following facts are true:

1. Respondent is a pharmacist licensed to practice pharmacy in the State of Maryland.

2. At all times pertinent hereto, Respondent has been practicing pharmacy in the State of Maryland at Beeli's Pharmacy, 5145 Park Heights Avenue, Baltimore, Maryland 21215 (the "Pharmacy.")

3. Respondent is the owner of the Pharmacy.

4. On September 1, 1994, Respondent was arrested by the Maryland State Police and the Baltimore City Police and thereafter indicted with violation of the Annotated Code of Maryland, Article 27, Section 286, Unlawful Distribution of Controlled Substances on May 27, 1994, June 6, 1994, June 10, 1994, July 18, 1994 and August 16, 1994.

5. The arrest occurred pursuant to a search and seizure warrant issued on August 30, 1994, by the Honorable John N. Prevas of the Circuit Court for Baltimore City authorizing the Maryland

State Police or other law enforcement agency to enter the Pharmacy, arrest all persons found on the premises who may be participating in the unlawful sale of controlled dangerous substances.

6. The probable cause which was presented to the Court in the application for the search and seizure warrant was based on the following facts:

a. There is a business known as Beeli's Pharmacy located at 5145 Park Heights Avenue, Baltimore City, Maryland.

b. During the month of May 1994, information was received from a confidential informant (the "CI") as to a pharmacist who is selling controlled dangerous substances illegally from Beeli's Pharmacy.

c. The CI advised that the suspected pharmacist will fill any prescription knowing it to be false for an excessive cost. On the average, it is one dollar (\$1.00) over cost per pill obtained. The pharmacist does not verify the prescription and does not ask any questions prior to dispensing the medication. The CI advised that the DEA registration number need not be correct as long as it is the proper number of characters.

d. The suspected pharmacist, Julian Miden, was one of the incorporators of the Pharmacy and is the resident agent.

e. On May 27, 1994, State Police Trooper First Class David M. Hammel, Bureau of Drug Enforcement, provided the CI with \$180 cash and a prescription for valium and a prescription for Demerol, both for 50 tablets using a fictitious doctor's name and DEA number. The CI left the Pharmacy without any drugs and told

Trooper Hammel that the Respondent stated "you used to be good, you need to write these more like a doctor." The CI also stated that the Respondent rejected the prescriptions because they were written in felt tip pen.

f. On May 27, 1994, approximately four minutes later, the CI returned to the Pharmacy with two additional prescriptions which Trooper Hammel created using blue ink. The CI gave the Respondent the prescriptions, \$180 cash and received 47 blue tablets and 50 white tablets.

g. On May 31, 1994, Trooper Hammel provided the CI with two prescriptions, one for Dilaudid and one for Valium. Both prescriptions were for 50 tablets and a fictitious doctor's name and DEA number was used. The CI presented the prescription to Respondent who stated he could not fill them because he was busy filling prescriptions for "people who really need them."

h. On June 6, 1994, Trooper Hammel provided the CI with currency and two prescriptions, written on Johns Hopkins Hospital blanks, one for 50 Valium and the other for 50 Percocet and both written with a fictitious doctor's name and DEA number. Trooper Hammel and the CI met with Respondent who stated he could not fill these prescriptions as they were written on blanks not intended for controlled substances. Respondent stated that if he filled these it would "get everyone in trouble." Respondent stated that these prescriptions were not valid for controlled substances and some other form of prescription must be used. Respondent told them to try some other type of prescription.

i. On June 6, 1994, approximately 30 minutes later, the CI presented two prescriptions to Respondent, both written on Sinai Hospital blanks, both with a fictitious doctor's name and DEA number. One prescription was for 50 Percocet and one for 50 Valium. Respondent filled these prescriptions without question. The CI gave Respondent \$100 cash which Respondent placed in his pocket without ringing the sale on the register.

j. On June 6, 1994, Trooper Hammel asked Respondent for an over the counter medicine for allergies. Respondent gave Trooper Hammel a bottle without a label containing 5 pink pills and told Trooper Hammel to take one every 12 hours.

k. On June 10, 1994, the CI presented Respondent with a prescription on Sinai Hospital blank for Dilaudid 4 mg. The CI paid Respondent \$120 cash. Respondent told Trooper Hammel he should take the CI to "detox at GBMC."

l. On June 15, 1994, Corporal Thomas G. McElroy of the Maryland State Police, Bureau of Drug Enforcement, presented to Respondent a prescription for 50 Percocet and prescription for 50 Valium. Respondent stated he could not fill them on that day and told Corporal McElroy to come back the next day. Respondent asked Corporal McElroy how the CI was doing.

m. On July 18, 1994, the CI spoke with Respondent about the sale of steroids, specifically DECA Winstrol-V or testosterone. Respondent told the CI that the steroid is usually prescribed one (1) per day and gave the CI a piece of paper on which Respondent wrote "methtestosterone 10 mg."

n. On July 18, 1994, the CI gave Respondent a prescription for Demerol 100 mg 50 tablets, and Valium 50 tablets and \$200 cash. Respondent placed the cash in his pants pocket and gave the CI \$10 change from the register. Respondent gave the CI two pill bottles and \$50 cash.

o. On August 15, 1994, Trooper Hammel gave the CI a prescription for Demerol and a prescription for Valium and cash. The CI gave the prescriptions to Respondent who stated that the prescriptions did not look "good enough" and he should return the next day with different prescriptions.

p. On August 16, 1994, Trooper Hammel gave the CI cash and a prescription for Demerol and a prescription for Valium. The CI prescribed these prescriptions to Respondent who told the CI that the prescriptions were "too neat," they needed to be "sloppier" and to "look like a doctor wrote them." Respondent stated that one of the symbols was incorrectly written and that "M.D." should be behind the doctor's name.

q. On August 16, 1994, approximately ten minutes later, the CI again presented the prescriptions, which Trooper Hammel rewrote, to Respondent. Respondent stated to the CI that he "could get in trouble filling these fake prescriptions." The CI gave Respondent \$130 cash and received two prescription bottles.

7. Based upon the above, the Board has reason to believe that Respondent's retention of a Maryland pharmacy license for the practice of pharmacy poses a risk to the health, safety and welfare of the citizens of Maryland.

CONCLUSIONS OF LAW

Based upon the foregoing, the Board finds that the public health, safety and welfare imperatively requires emergency action in this case pursuant to Md. State Gov't Code Ann. §10-405(b) (1993 Repl. Vol.).

It is this 21st day of ORDER Sept, 1994, by the Board of Pharmacy:

ORDERED that pursuant to the authority vested in the Board by the Maryland State Gov't Code Ann. §10-405(b) (1993 Repl. Vol.), Respondent's pharmacy license for the practice of pharmacy in the State of Maryland is hereby SUMMARILY SUSPENDED; and be it further

ORDERED that on presentation of this Order, Respondent shall immediately surrender to the representatives of the Board:


- (1) diploma-size Certificate No. 5139;
- (2) current Department of Health and Mental Hygiene License Certificate No. 5139;
- (3) current wallet-size license card No. 5139; and be it further

ORDERED that a hearing to consider this emergency suspension shall be held before the Board on October 19, 1994 at 1:00 p.m., Room 108, 4201 Patterson Avenue, Baltimore, Maryland 21215; and be it further

ORDERED that a copy of this Order shall be filed with the Maryland State Board of Pharmacy; and be it further

ORDERED that this is a Final Order and as such is considered as public record pursuant to Md. State Gov't Code Ann. §10-611 et seq. (1993 Repl. Vol.).

9/21/04
Date



Steven Cohen, P.D.
President
Board of Pharmacy