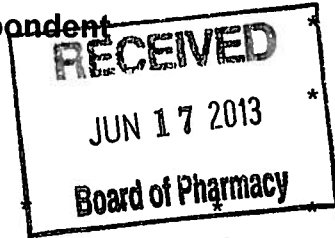


IN THE MATTER OF
VORTECH PHARMACEUTICALS, LTD.*

* BEFORE THE
MARYLAND BOARD
OF PHARMACY

Respondent
Unlicensed

Case No.: PI-13-079/13-479



* * * * *

CONSENT ORDER

On March 20, 2013, the Maryland State Board of Pharmacy (the "Board") charged **VORTECH PHARMACEUTICALS, LTD. (the "Respondent-Distributor") (Unlicensed)**, under the Maryland Pharmacy Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 12-101 *et seq.* (2009 Repl. Vol. and 2010 Supp.).

The pertinent provisions of the Act provide as follows:

H.O. § 12-6C-03. Permit Required.

(a) *Wholesale distributor.* – 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.

On May 22, 2013, the Respondent-Distributors appeared before members of the Board and the Board's counsel for a Case Resolution Conference (CRC) to discuss the potential resolution of the Charges by consent. At the conclusion of the CRC, the Respondent-Distributor agreed to enter into this Consent Order to resolve the pending charges and to avoid the expense and time of proceeding to an administrative hearing. The Respondent-Distributor and the Board agreed to the inclusion of Findings of Fact and Conclusions of Law as required by the Board, and with the terms and conditions set forth

herein.

FINDINGS OF FACT

The Board finds the following:

1. The Respondent-Distributor is located in Dearborn, Michigan and is a manufacturer regulated by the Food and Drug Administration.

2. At the time of the allegations, the Respondent-Distributor did not hold and had never held a Maryland distributor permit. On or about December 5, 2012, the Maryland Division of Drug Control ("DDC") was conducting an opening inspection at Queen Anne County Animal Control Center in Queenstown, Maryland when the DDC inspector observed one invoice for Fatal Plus¹ from the Respondent-Distributor.

3. The DDC inspector notified the Board after it could not ascertain whether the Respondent-Distributor held a distributor permit in Maryland.

4. Thereafter, the Board initiated an investigation.

5. The Board's investigator determined that the Respondent-Distributor did not hold a distributor permit and an application was not pending.

6. On or about December 13, 2012, the Board issued a subpoena for copies of invoices for all prescription medications that the Respondent-Distributor shipped to the State of Maryland.

7. On or about December 19, 2013, the Respondent-Distributor provided invoices for product shipped to Maryland in 2012.

¹ Fatal Plus contains pentobarbital sodium as the active ingredient and is used to euthanize animals. It is a schedule II controlled dangerous substance.

8. According to the invoices, the Respondent-Distributor distributed approximately in \$40,000 worth of Fatal-Plus in Maryland in 2012.

9. In a letter accompanying the invoices, the Respondent-Distributor stated that while it primarily sells through distributors, it also sells directly to humane societies and city shelters to help keep costs low for these organizations.

10. Although many of the invoices were for humane societies and city shelters, the Respondent-Distributor also sold Fatal-Plus to other veterinary establishments. The Respondent estimates that approximately 80% of the sales in Maryland were to humane societies and city shelters, while the remaining 20% were to private veterinary practices.

11. On May 3, 2013, the Board issued the Respondent-Distributor a wholesale distributor permit (D05241).

12. The Respondent-Distributor's actions as outlined in pertinent part above constitute a violation of H.O. § 12-6C-03(a).

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent-Distributor violated the following provision of the Act: H.O. § 12-6C-03(a).

ORDER

Based on agreement of the parties, it is therefore this 19TH day of June 2013, by an affirmative vote of the Board, hereby:


ORDERED that within 90 days of the effective date of this Consent Order, the Respondent-Distributor shall pay a fine in the amount of **\$1,500**, payable to the Maryland Board of Pharmacy; and it is further

ORDERED that failure to comply with the terms and conditions of this Consent Order, including but not limited to failure to pay the required fine, constitutes a violation of this Consent Order and the Board, in its discretion, after notice and an opportunity for a show cause hearing before the Board may impose any appropriate sanction under the Act; and it is further

ORDERED the Respondent-Distributor shall bear all expenses associated with this Order; and it is further

ORDERED the Respondent-Distributor shall operate according to the Maryland Pharmacy Act and in accordance with all applicable laws, statutes and regulations pertaining to its operation as wholesale distributor; 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 the Public Information Act, State Gov't § 10-611 *et seq.* and COMAR 10.34.01.12.



Michael N. Souranis, President
State Board of Pharmacy

CONSENT

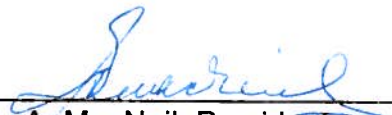
I, John A. MacNeil, President of Vortech Pharmaceuticals, Ltd. ("Vortech"), for and on behalf of Vortech acknowledge that Vortech has had the opportunity to consult with legal counsel before signing this document. By this Consent, Vortech agrees to be bound by this Consent Order and its conditions and restrictions. Vortech waives any rights it may have had to contest the Findings of Fact and Conclusions of Law.

Vortech acknowledges the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which Vortech would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on its own behalf, and to all other substantive and procedural protections as provided by law. Vortech acknowledges the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. Vortech waives any right to appeal any adverse ruling of the Board that might have followed any such hearing.

I sign this Consent Order on behalf of Vortech without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Order, and understand its meaning and effect.

I am a duly authorized representative of Vortech and am legally authorized to sign this consent order on behalf of Vortech.

6/11/2013
Date



John A. MacNeil, President
Vortech Pharmaceuticals, Ltd.

NOTARY

STATE OF MICHIGAN

CITY/COUNTY OF Livingston :

I HEREBY CERTIFY that on this 11th day of June, 2013, before me, a Notary Public of the foregoing State personally appeared John A. MacNeil, President of **Vortech Pharmaceuticals, Ltd.**, and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

Blair E. Harding
Notary Public

My Commission Expires: _____

BLAIR E. HARDING
Notary Public, State of Michigan
County of Livingston
My Commission Expires Nov 15, 2014
Acting in the County of Livingston