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IN THE MATTER OF
DESIO F. GOMES, P.D.

License No. 09467

Respondent

* BEFORE THE
* MARYLAND STATE
* BOARD OF PHARMACY
*

* * * * *

CONSENT ORDER

Based on information received and a subsequent investigation by the Maryland State Board of Pharmacy (the "Board"), and subject to Health Occupations Article § 12-315, Annotated Code of Maryland (the "Act"), the Board charged Desio F. Gomes, P.D. (the "Respondent"), with violations of § 12-313 of the Act.

Specifically, the Board charged the Respondent with violation of the following provisions:

Subject to the hearing provisions of §12-315 of this subtitle, the Board, on the affirmative vote of a two-thirds majority of its members then serving, may deny a license to any applicant, reprimand any licensee, place any licensee on probation; or suspend or revoke a license if the applicant or licensee:

- (21) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;
- (23) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes.

The Respondent was given notice of the charges and the issues underlying those charges by letter and charging document sent to Respondent on August 19, 1994. A prehearing conference on those charges was held on October 11, 1994 and was attended by

Robert J. Kabik, P.D. and Theodore S. Litwin, Esquire, Board members, and Roslyn Scheer, Executive Director of the Board. Also in attendance were the Respondent and the Administrative Prosecutor, Janet Klein Brown, Assistant Attorney General. Respondent was notified of his right to counsel at the prehearing conference and elected to proceed without counsel.

Following the prehearing conference, the parties and the Board agreed to resolve the administrative charges by way of settlement. As a result of negotiations entered into at the prehearing conference the parties have agreed to enter into the following Consent Order.

FINDINGS OF FACT

The Board makes the following findings of fact:

1. At all times relevant to the charges herein, Respondent was licensed to practice pharmacy in the State of Maryland.
2. At all times relevant to the charges herein, Respondent was employed at Foggy Bottom Apothecary, Inc., 1118 22nd Street, N.W., Washington, D.C.
3. On July 9, 1993, in the United States District Court for the District of Columbia, Criminal Case No. CR93-0229-01, Respondent pled guilty to and on September 17, 1993 Respondent was convicted of, four counts of violation of 21 U.S.C. 828 and 843(a)(1), unlawful distribution of a Schedule II controlled substance.
4. On September 17, 1993, pursuant to the guilty verdict

in case number CR93-0229-01, Respondent was ordered to forfeit his license to practice pharmacy in the District of Columbia.

5. On September 17, 1993, pursuant to the guilty verdict in case number CR93-0229-01, Respondent was ordered to forfeit Twenty-five Thousand Dollars (\$25,000.00) to the United States as proceeds of the unlawful drug activities.

6. The crime described in ¶3 is a felony and a crime involving moral turpitude.

7. The United States District Court Order convicting Respondent of unlawful distribution of a Schedule II controlled substance constitutes being disciplined by a court for an act that is grounds for disciplinary action under the Board's disciplinary statute.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law, that the Respondent violated § 12-313(21) and (23).

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law, and agreement of the parties, it is this 15th day of Nov, 1994, by a majority of a quorum of the Board, hereby

ORDERED that the license of Desio Gomes, P.D., to practice pharmacy be REVOKED; and be it further

ORDERED that Respondent may apply for reinstatement of his pharmacist license after he has complied with the following requirements:

1. Respondent shall satisfy all the conditions of and shall be terminated from probation in criminal case no. CR92-0229-01;

2. Respondent shall take and complete a college level ethics course that has been approved by the Board and shall report to the Board in writing that he received a passing grade and provide verification from the college of the passing grade;

3. Respondent shall obtain ten continuing education hours in pharmacy law and shall provide proof to the Board of the completion of these courses;

4. Respondent shall take continuing education courses equalling at least 30 hours every two years during the time his license is revoked. The courses referred to in paragraphs 2 and 3 above shall count towards Respondent's continuing education requirements; however, the course referred to in paragraph 2 shall be counted based on the following formula (5 hours CE credit for each 1 credit of the college course); and further provided that the requirement to take at least 30 hours of continuing education may be obtained and accumulated at any time prior to filing a petition for reinstatement;

5. Respondent shall meet the reinstatement standards and requirements for individuals out of practice as delineated in COMAR 10.34.13;

6. When Respondent works as an unlicensed individual under the supervision of a pharmacist or in any pharmacy or drug related work, Respondent shall give a copy of this Consent Order

to any and all such employers; and be it further

ORDERED that the conditions of the Consent Order be, and the same hereby are, effective as of the date of this Order; and be it further

ORDERED that after Respondent has fulfilled the previously stated conditions, and after two years from the date of this Order, whichever occurs later, the Board shall entertain a petition for full reinstatement of Respondent's license to practice pharmacy without any probationary conditions. If the Board determines that complete reinstatement would be inappropriate at the time, the Board may place Respondent on probation; and be it further

ORDERED that for purposes of public disclosure, as permitted by § 10-617(h) State Govt Art., Ann. Code of Maryland, this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law and Order.



Steven Cohen, P.D.
President
Maryland Board of Pharmacy

CONSENT OF DESIO F. GOMES, P.D.

I, Desio F. Gomes, P.D., by affixing my signature hereto, acknowledge that:

1. I am aware of my right to be represented by an attorney, and I have been elected not to be represented.

2. I am aware that without my consent, my license to practice pharmacy in this State cannot be limited except pursuant to the provisions of § 12-313 of the Act and § 10-205 et seq. of the Administrative Procedure Act, State Government Article, Annotated Code of Maryland.

3. I am aware that I am entitled to a formal evidentiary hearing before the Board.

By this Consent Order, I hereby consent and submit to the foregoing Findings of Fact, Conclusions of Law and Order provided the Board adopts the foregoing Final Consent Order in its entirety. By doing so, I waive my right to a formal hearing as set forth in § 10-215 of the Administrative Procedure Act, State Government Article, Annotated Code of Maryland, and any right to appeal as set forth in § 12-316 of the Act and § 10-215 of the Administrative Procedure Act. I acknowledge that by failure to abide by the conditions set forth in this Order and following proper procedures, I may suffer disciplinary action, possibly

including revocation, against my license to practice Pharmacy in the State of Maryland.

10/30/94
Date

Desio F. Gomes, P.D.
Desio F. Gomes, P.D.

STATE OF MARYLAND)
CITY/COUNTY OF Montgomery) ss:

I HEREBY CERTIFY that on this 30th day of October, 1994, a Notary Public of the State of Maryland and City/County aforesaid, personally appeared Desio F. Gomes, P.D., License No. 09467, 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 WITNESS my hand and Notarial Seal.

Charles J. Cavanaugh
Notary Public

CHARLES J. CAVANAUGH
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires February 1, 1996

My Commission Expires: _____