IN THE MATTER OF	*	**BEFORE THE**
BORIS O. YURGANOV	*	**MARYLAND BOARD**
Applicant	*	**OF**
	*	**PHYSICAL THERAPY EXAMINERS**

* * * * * * * * * * * * *

CONSENT ORDER
PROCEDURAL BACKGROUND

On May 15, 2007, the Maryland Board of Physical Therapy Examiners (the "Board") notified Boris O. Yurganov, (the "Applicant"), D.O.B. 12/22/1982, of the Board's intent to deny his application for a license to practice as a Physical Therapist Assistant ("P.T.A.") under the Maryland Physical Therapy Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 13-101, *et seq.*, (2005 Repl. Vol.).

The pertinent provisions of the Act the Board relied upon state:

§ 13-302. Qualifications of applicants – Generally.

(b) *Moral character.* – The applicant shall be of good moral character.

§ 13-316. Denials, reprimands, probations, suspensions, and revocations – Grounds.

Subject to the hearing provisions of § 3-317 of this subtitle, the Board may deny a license, temporary license, or restricted license to any applicant . . . if the applicant . . .:

(6) 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.

On June 11, 2007, the Applicant appeared before the Case Resolution Conference ("CRC") that was convened by the Board to consider the Applicant's application. The CRC recommended that the Applicant's application be granted, subject to certain terms and conditions. Upon consideration of the CRC's recommendation, the Board voted to issue the

Applicant a license subject to the terms and conditions that are set forth in this Public Consent Order, which consists of Findings of Fact, Conclusions of Law, Order, and Consent of the Applicant.

FINDINGS OF FACT

The Board finds the following:

1. The Board received the Applicant's Application for Physical Therapist Assistant Licensure on or about December 18, 2006. The Applicant answered affirmatively to the following questions:

> Have you committed a criminal act to which you pled guilty or nolo contendere or for which you were convicted or received probation before judgment?; and
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> Have you committed an offense involving alcohol or controlled dangerous substances to which you pled guilty or nolo contendere or for which you were convicted or received probation before judgment?

2. Along with his application, the Applicant submitted a statement detailing a charge of driving under the influence ("DUI") in 2006 and a misdemeanor charge of theft over $500 in 2003.

3. In reference to the DUI charge, the Applicant admitted to receiving a DUI charge and noted he was given unsupervised probation before judgment and was required to complete alcohol information classes. Based on the Applicant's statement, the Board investigated the DUI charge and found that the Applicant had received probation before judgment on November 15, 2006, on a DUI charge in the District Court for Carroll County, Maryland.

I. Conspiracy to Commit Theft over $500

4. In reference to the theft charge, the Applicant stated in pertinent part:

> In the summer of 2003 my older brother asked me if I would drive him to a BMW dealership in Montgomery County where he wants to look at a car for his father-in-law. Knowing that his father-in-law was a wealthy businessman I was not

> surprised at this request. I did as my brother asked and drove him to the dealership. At the dealership my brother told me to go home and that he will get the car and drive it back. Without thinking anything of it I went home.
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> Later that week I found out that Yaroslav had opened a credit card using our brothers [sic] Igor's information and between him and his wife charged $9,000 on the card. Igor was very upset when he found out what had happened and demanded Yaroslav to pay him the money immediately. Yaroslav not having the money went to a loan shark to borrow the money with a promise to pay it back within a few weeks. He could not get this amount by the due date and decided to commit car theft, sell the car and settle his debt on time. When I heard what he had done I was in complete shock. I didn't know what to do at that point. I realized that with me driving him to the dealership, without knowing I became and [sic] accomplice. I didn't know what to do to not get charged and I didn't want to turn my brother in either. I found myself in a very difficult situation.

(Applicant's Explanatory Statement to Board, December 15, 2006, Attached as Exhibit A).

5. Subsequent investigation by the Board revealed the following:

a. The Applicant was initially charged in the District Court of Maryland for Montgomery County on August 13, 2003, with seven counts: (1) Armed Carjacking; (2) Kidnapping; (3) False Imprisonment; (4) Unauthorized Use of a Motor Vehicle; (5) Motor Vehicle Theft; (6) Theft over $500; and (7) Conspiracy to Commit Armed Carjacking. (Statement of Charges and Statement of Probable Cause, dated August 12, 2003, Attached as Exhibit B).

b. A copy of a police report of the incident obtained from the Montgomery County Police Department indicated that on July 29, 2003, a BMW salesman reported an armed carjacking while he took a couple on a test drive in a BMW. The salesman indicated a gun was pulled on him during the test drive and that he was robbed of his wallet and cell phone and tied to a tree with plastic flex cuffs. The individuals reportedly involved in the incident were Yaroslav Yurganov, Boris O. Yurganov, and Liliya Popova.

c. In a signed, written statement dated August 12, 2003, (Applicant's Statement, dated August 12, 2003, Attached as Exhibit C), the Applicant stated to the police:

> My brother, Yaroslav, Lia and I came to Montgomery County, MD to get a BMW. Recently, Yaroslav, borrowed $10,000.00 from a loan shark at a very high interest rate. He needed to pay the loan shark or they were going to harm him. This is why I agreed to help him. Lia was asked to come along to pose as my brother's wife so he might get a good deal on the car. Lia did not know what was going on until it actually happened.
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> We came down in my Acura and my brother and Lia went into the dealership. The plan was for them to come out for test drive and I was going to follow them and then take the first turn but they did not.
>
> I then went to the storage place and my brother Lia and the salesman came there. I then took the salesman out of the car. We led him over to some trees. We put the plastic ties around his wrists and tied him to a tree. We put duct tape over his mouth but we left his cell phone nearby for him. I then drove Lia back in my car.
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> I took Lia to the Belarus Consulate in New York for advise [sic] but they were closed. I first took her to the one in Washington but they too were closed. Lia and I got dropped off at the Baltimore County Police Station so we could turn ourselves in and tell our side of the story.

d. On approximately September 4, 2003, the Applicant was indicted in the Montgomery County Circuit Court on the following counts: (1) Armed Carjacking; (2) Conspiracy to Commit Armed Carjacking; (3) Carjacking; (4) Conspiracy to Commit Carjacking; (5) Kidnapping; (6) Conspiracy to Commit Kidnapping; (7) Motor Vehicle Theft; (8) Conspiracy to Commit Motor Vehicle Theft; (9) False Imprisonment; and (10) Conspiracy to Falsely Imprison. (Indictment, Attached as Exhibit D).

e. On March 1, 2004, the Applicant pled guilty to an amended count 2 of the indictment charging conspiracy with Yaroslav Yurganov, Illia Popavov, and other unnamed co-

conspirators to commit theft over $500.[1] The Applicant was sentenced to three (3) years incarceration, with all but thirty seven (37) days suspended. He was also placed on two (2) years supervised probation. The remaining counts of the indictment were dismissed. (Docket Entries, Attached as Exhibit E).

f. Prior to pleading guilty to the charge, the Applicant was advised of his right to a trial, right to cross-examination, right to file motions, right against self-incrimination, and right to a jury trial. The Applicant waived those rights and continued with his plea. (Transcript of March 1, 2004 Hearing, Attached as Exhibit F).

g. As to the facts, the Court noted during the hearing the case involved a car salesman "who was in on it and said that –reported it as an armed carjacking." (Ex. F at 3). In regards to the factual basis for his plea, the prosecutor read into the record the following facts, to which the Applicant agreed:

> [State]: Your Honor, if the State would proceed to trial, the State would call witnesses who would testify that on July 29th, 2003, there was a call for an armed carjacking that had just occurred in Silver Spring. Officers responded. Detective Evans and Detective Golden responded to the scene. Once on the scene, they spoke with Patrol Officer Dugan who indicates that Mikhail Bolgar, who's employed at Tischer BMW located at 321 Automobile Boulevard in Silver Spring, Montgomery County.
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> The Court: What's his name? Mikhail what now?
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> [State]: Bolgar.
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> The Court: Bolgar, B-O-L-G-A-R, right?
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> [State]: Correct. He works there as a salesperson and he indicated that he had received a call from an unknown Russian male suspect who inquired about a 2003 black in color 745i BMW valued at approximately $77,000. Mr. Bolgar advised that he had one in stock and provided the Russian male with directions to the dealership.

[1] The charge to which the Applicant pleaded guilty was a misdemeanor and not a felony. Count 2 of the indictment was amended by interlineation to state a charge of conspiracy to commit theft over $500, an offense pursuant to common law.

At approximately 8:30, a Russian male suspect and a Russian female suspect arrived. They were described as approximately mid-twenties in age, 5'8" -- the first suspect, 5'8" tall, approximately 180 pounds, short blond hair, wearing black clothing with a square face. The female was described as a Russian Caucasian female approximately early twenties, 5'4", 100 pounds, blond hair, wearing black clothes.

They inquired about leasing a 745i BMW. Mr. Bolgar took the couple on a test drive in the immediate area of the dealership. Suspect one first drove the vehicle and then suspect three drove the vehicle. On the way back to the dealership, Mr. Bolgar drove the car with suspect one in the rear seat and suspect three in the passenger seat.

Mr. Bolgar indicated upon approaching the dealership, suspect one brandished a handgun, ordered him to -- Mr. Bolgar to continue driving on Briggs Chaney Road. It should be noted that suspect number one stated he had a handgun to Bolgar in Russian. Suspect one then ordered him to turn into the Shurguard (phonetic) Storage Facility and they -- to meet up with his brother. Upon entering the lot, Bolgar observed a second suspect who exited his vehicle, a late 1980s Acura Legend, described as, again, a Russian Caucasian male, approximately early twenties in age, approximately 5'8" tall, 120 pounds, wearing black clothing and tan-colored latex gloves. He indicated that they pulled Mr. Bolgar from the vehicle, they put gray duct tape on his mouth, they handcuffed him, took him to the woods and loosely tied him around a tree.

I would just kind of -- let me, if I can shorten this up since the Court has already heard the proffer. Officers responded, they canvassed the area. They found the duct tape and white flex cuffs. They spoke with some other people at the dealership, and Dave Comfort (phonetic), a salesperson, indicated that he had observed the couple and he described them and gave a statement. Detective Evans referenced a valid driver's license that was -- he had obtained a valid driver's license indicating that a Robert Eugene Pisa (phonetic) was a person -- when they hand over a driver's license, that was copied. As you know, they do that for test drives.

A follow-up investigation indicates that Mr. Pisa had lost his license and that was, in fact, the lost license.

I would indicate Detective Evans tried to get a track on it but they didn't have any tracking device. I would indicate, at some point in time, the Baltimore City -- on August 8th, 2003, the Baltimore County Department of Police recovered the carjacked BMW. Located inside the vehicle was Yaroslav Yurganov, who was arrested and denied committing armed carjacking but confessed to operating it. He indicated that he had gotten the vehicle in a high-

dollar poker game in Silver Spring. He further advised that his brother, Boris, the defendant in this case, and his girlfriend were also inside the vehicle, but had –

The Court: Both brothers and -- I thought it was just the brother that went for the test drive and the female, but both brothers were in the car in Baltimore County?

[State]: Yes. And he -- apparently, they fled before the police -- they were able to elude capture by the police. Mr. –

The Court: Did this gentleman flee?

[State]: Yes.

The Court: I thought it was the other Yurganov that came clean.

[State]: Y. Yurganov further advised that this brother, Boris, and his girlfriend, unknown name at this time, were also in the vehicle but had eluded capture by the police. Boris Yurganov actually had a key to the carjack in his possession and turned it over to Officer Shipley (phonetic). We know that all three subjects match the physical descriptions. So, that's my understanding of what occurred.

The Court: All right. So, this defendant ran with the woman?

[State]: Correct.

The Court: All right.

[State]: Shortly thereafter, Boris Yurganov and his girlfriend, Illia Popavov, responded to the Baltimore County Police Department, Garrison District, and turned themselves in, and indicated they -- as being involved in this. They both signed a written statement indicating they had carjacked Mr. Bolgar and provided specific details implicating Mr. Yurganov.

It has also been indicated to the Court that Mr. Yurganov does, in fact, operate an Acura Legend.

After their arrest and incarceration, there was some, I guess I would say, conflicting information that came forth. On August 14th, Detective Evans received a phone call from Y. Yurganov from a cell phone. During the brief conversation, he advised that the carjacking was all his fault and that his brother and Ms. Popavov had nothing to do with it. He advised that he wanted to speak with Detective Evans regarding the incident, but wanted to confer with his attorney before he turned himself in.

He finally did. On August 19th, he turned himself in to the Rockville station and to Officer Kennedy. He was in the presence of his attorney. He didn't make a statement at that point in time.

It came later to light, Your Honor, that, in fact, what happened was that the victim in this case, Mr. Bolgar, had conspired with the suspects to stage the carjacking in order to sell the car as spare parts. They interviewed two witnesses who would indicate that the co-defendant was seen in the company of the victim on more than one occasion prior to this incident, indicating that he knew these two people that had come to do the test drive, and that's my understanding. These witnesses would testify at trial. All these events occurred in Montgomery County.

The Court: I thought that the first Yurganov that I have is the one that went in and made the statements to the police and indicated that Bolgar was in on the whole thing.

[State]: Well, I think so.

The Court: That was Yaroslav Yurganov.

[State]: I think he did. I think that happened eventually, Your Honor, with counsel. It's just not in the statement of charges. I agree with Your Honor.

The Court: All right.

Mr. Kudel [Applicant's Attorney]: No additions or corrections to that proffer.

The Court: All right, thank you, Mr. Kudel. All right, stand up, Mr. Yurganov, Mr. Boris Yurganov. All right, you heard what the State indicated that they would prove if this matter went to trial. Did you do that?

[Applicant]: Yes, sir.

(Ex. F at 17-23).

h. On or about April 26, 2004, the Applicant attended a sentencing hearing on his guilty plea in the Circuit Court for Montgomery County. (Transcript of April 26, 2004 Hearing, Attached as Exhibit G). During the hearing the Court stated, "[w]ell, it wasn't a carjacking is the bottom line. . . . The man who supposedly was being carjacked was in on the whole deal." (Ex.

G at 11). Furthermore, in regards to the offense, the following pertinent exchange took place between the Court and the Applicant:

> [The Court]: .... Tell me how you got involved in this.
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> [Applicant]: Well –
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> The Court: I mean, you were going to sell it for parts, right?
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> [Applicant]: I'm not really sure what he was going to do with it. I told him—I don't have any intentions to incriminate my brother what you are asking. How I got into this, of course it was a surprise for me as well.
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> The Court: Well, I'm not worried about your incriminating your brother any more than he has been, but it's clear—it's on the table anyway that it was not your idea, it was his idea. My question to you is simply, when your brother comes to you, why don't you say, what are you, nuts, what are you, crazy, I've never done anything like this before, this is wrong. We can't take a $77,000 automobile.
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> [Applicant]: Yes, Your honor. I did try to put sense into him, but the way that I presented this situation was that most of all his life was on the line, that if he didn't get that money in that short period of time, he was – going to be dealt with (inaudible) because of his debt. . . .

(Ex. G at 14-15).

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Applicant violated Md. Health Occ. Code Ann. § 13-316(6) (plea of guilty to a crime of moral turpitude).

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 17th, day of July, 2007, by a majority of the Board considering this case:

ORDERED that the Applicant is hereby granted approval by the Board to take the national examination for physical therapist assistants; and be it further

ORDERED that the Applicant will **NOT** be issued a temporary license; and be it further

ORDERED that upon attaining a passing score on the national examination the Applicant will be issued a license to practice as a Physical Therapist Assistant and such license will immediately be placed on **PROBATION** for a minimum **PERIOD OF TWO (2) YEARS**. The Applicant's probationary period shall commence on the date that the Applicant is granted a license to practice as a Physical Therapist Assistant, subject to the following terms and conditions:

1. The Applicant must successfully complete the Board-approved law and ethics course; -> Completed June 21, 2007 RZ
2. The Applicant may only practice in a Board-approved setting. At minimum, he may not practice in home health care and the setting must have another licensed physical therapist on-site at all times. The Applicant cannot work as a Physical Therapist Assistant in the current practice in which he is working as an aide;
3. The Applicant shall practice in a Board-approved setting for the equivalent of two (2) years of full time work;
4. In the Board-approved practice setting, the Applicant shall have a Board-approved Physical Therapist supervisor who will report to the Board quarterly regarding the Applicant's practice competency, adherence to the practice Act, and adherence to ethical guidelines;
5. The Applicant shall be assigned a Board-approved mentor, who shall be different than his on-site Physical Therapist supervisor, who will meet periodically with the Applicant and will report on these meetings to the

Board. The mentor will be available for the Applicant to discuss general practice issues and his ability to exercise good judgment; and

6. The Applicant shall be subject to random drug and alcohol testing;

and it is further

ORDERED after the conclusion of the entire **TWO (2) YEAR** period of **PROBATION**, the Applicant may file a written petition for termination of his probationary status without further conditions or restrictions, but only if the Applicant has satisfactorily complied with all conditions of this Consent Order, including all terms and conditions of probation, and including the expiration of the two year period of probation, and if there are no pending complaints regarding the Applicant before the Board; and be it further

ORDERED that should the Applicant violate any of the terms or conditions of this Consent Order, the Board, after notice, opportunity for a hearing and determination of violation, may impose any other disciplinary sanctions it deems appropriate, including suspension or revocation, said violation being proven by a preponderance of the evidence; and be it further

ORDERED that the Applicant shall be responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and be it further

ORDERED that this Consent Order is considered a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. §§ 10-611 et seq. (2004 Repl. Vol.).

7-17-2007
Date

Margery Rodgers, P.T.
Margery Rodgers, P.T., Chair
Board of Physical Therapy Examiners

CONSENT OF BORIS O. YURGANOV

I, Boris O. Yurganov, acknowledge that I have had the opportunity to consult with counsel before signing this document. By this Consent, I admit to the Findings of Fact and Conclusions of Law as set forth above, and agree and accept to be bound by the foregoing Consent Order and its conditions and restrictions in their entirety. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

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

I sign this Consent Order after having had an opportunity to consult with counsel, 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 and agree to all of its terms and conditions.

Date: 6/29/07

Boris O. Yurganov

Read and Approved:

Robert A. Zirkin, Esquire
Attorney for Boris O. Yurganov

STATE OF MARYLAND

CITY/COUNTY OF Baltimore **:**

I HEREBY CERTIFY that on this 24th day of June, 2007, before me, a Notary Public of the foregoing State and City/County aforesaid, personally appeared Boris O. Yurganov, 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.

JOHN CHARLES ROBINSON
NOTARY PUBLIC
HOWARD COUNTY
MARYLAND
My Commission Expires Feb. 13, 2008

My Commission Expires: 2-13-2008

Notary Public