

arrest on August 22, 1986 in Easton, Maryland.

3. Following police investigation, the Defendant was charged in the Circuit Court for Talbot County (indictment numbers 3390 - 3400; 3415 - 3421) with eighteen separate incidents of violation of the criminal laws as follows: distribution of a controlled dangerous substance by a registrant without required order form, Art. 27, Sec. 289; possession of a controlled dangerous substance, Art. 27, Sec. 287; obtaining controlled dangerous substance by forgery of a prescription, Art. 27, Sec. 287; obtaining controlled dangerous substance by fraud, Art. 27, Sec. 300; and theft, Art. 27, Sec. 342, Annotated Code of Maryland.

4. On September 15, 1986, the Respondent, by his attorney, T. Joseph Touhey, Esquire, did notify the Chairman of the Pharmacy Board of the pending criminal charges against him in the Talbot County Court. He did also indicate an intent to voluntarily suspend his professional activities pending the outcome of those charges. The investigative file of this Board reflects that the Respondent further did sign agreements with the Board agreeing to continue his voluntary suspension of the practice of pharmacy until further action of the Board.

5. On September 19, 1986, the Respondent also entered into a contract with the Pharmacist Rehabilitation Committee of the Maryland Pharmaceutical Association headed by Dr. Tony Tommasello. A copy of that agreement was reviewed by the Board. Further, this Board has received a letter addressed to Roslyn Scheer, Executive Director of the Board, dated July 2, 1987 from Dr. Tommasello in which that Committee has recommended that Dr. Hulko be allowed to return to full practice of pharmacy under the condition that he complete the

terms of his rehabilitation contract dated September 19, 1986 and under such additional terms and conditions as the Board deems appropriate. That letter and recommendation by that Committee is part of the investigative file of this Board.

6. On February 11, 1987, the Respondent appeared before the Honorable John C. North of the Circuit Court for Talbot County and pled guilty to multiple counts of the eighteen indictments set forth above. After a pre-sentence investigation by the Court, the Respondent appeared before Judge North for sentencing on June 1, 1987 at which time Judge North struck the judgment of guilty as to each count and granted a "probation before judgment" disposition under Art. 27, Sec. 641, Annotated Code of Maryland. The Defendant was ordered to pay a fine of \$5000.00 within a probationary period of five years. He further was ordered to make immediate restitution to Hill's Pharmacy in the amount of \$1127.00. He was ordered to perform 250 hours of community service and otherwise to abide by the terms and conditions of an Order of Probation which included continued psychotherapy; weekly attendance at A.A. or N.A. group meetings; random drug screening and other standard terms and conditions of probation. The special terms of probation were essentially the same terms agreed to by the Respondent with the Rehabilitation Committee.

7. On September 17, 1986, this Board met and voted an emergency suspension of the license of the Respondent and further to charge him with violation of Section 12-311(b) (2) (6) (7) (14) of the Maryland Pharmacy Act, Health Occupations Article, Section 12-101, et seq., Annotated Code of Maryland.

8. A pre-hearing conference was held on July 7, 1987 in Baltimore, Maryland, following appropriate notice to Respondent. Present at this conference were: the Respondent; his attorney, T. Joseph Touhey, Esquire; Roslyn Scheer, Executive Director of the Maryland Pharmacy Board; Harry Matz, Esquire, Assistant Attorney General; and Steven Cohen, Board Member. At this meeting, the Respondent was questioned by representatives of the Board regarding his activities. The Board reviewed the September 19, 1986 contract between the Respondent and the Pharmacist Rehabilitation Committee; the July 2, 1987 letter from Tony Tommasello, President of the Pharmacist Rehabilitation Committee; and other investigative data accumulated by the Board in the course of this investigation of this matter.

CONCLUSIONS OF LAW

Based on the foregoing findings of fact, the Board hereby concludes as a matter of law that the Respondent violated Section 12-311(b) (4), (14) and (21) of the Act:

- (4) Is addicted to any controlled dangerous substance;

- (14) Without having first received a written or oral prescription for a drug from an authorized prescriber; dispenses any drug for which a prescription is required;

- (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.

9. At the July 7, 1987 pre-hearing conference, after a thorough review of the investigative material available to the Board, the representatives there present concurred that the Respondent, by his responses and appearance and demeanor in testimony, indicated a sincere willingness to continue his efforts towards a successful rehabilitation.

10. The Board finds the Respondent to be sincerely engaged in attempts to arrest his dependency on drugs and otherwise engaging in a course of consistent conduct demonstrating a willingness to reestablish himself in the practice of pharmacy.

11. The Respondent acknowledged that he still has the disease of addiction and that he will continue to require counselling and other monitoring and that various other conditions are advisable for the Board to impose should it decide to allow the Respondent to allow his continued practice of pharmacy in this state.

ORDER

Based on the foregoing findings of fact and conclusion of law, it is this 22nd day of July, 1987, by the unanimous vote of those members of the Board considering this case,:

ORDERED that the Respondent's license to practice Pharmacy is suspended and that the suspension is stayed and it is further:

ORDERED that the Respondent is placed on probation subject to the following conditions:

1. That Respondent be monitored weekly by a qualified therapist approved by the Board (or at such intervals as deemed appropriate by the therapist); that Respondent immediately give a copy of this Order to his therapist and arrange for the therapist to advise the Maryland Board of Pharmacy within thirty (30) days of the date of this Order, in writing, of receipt and agreement to conform to this Order;

2. That Respondent comply with any and all recommendations made to him by his therapist in the time suggested by the therapist;

3. That Respondent arrange for his therapist to submit written quarterly reports to the Maryland Board of Pharmacy and to the Pharmacists Rehabilitation Committee of the Maryland Pharmaceutical Association, reporting on Respondent's compliance with this Order and progress, and specifically indicating what progress the Respondent has made in dealing with the problems that led to his possession and/or abuse of controlled dangerous substances. The first report shall be due on September 1, 1987. Thereafter, the reports shall be due quarterly, until such time as Respondent has been terminated from probation.

4. That Respondent shall continue to be monitored by the therapist until such time as Respondent has been terminated from probation;

5. That in the event that Respondent discontinues seeing the therapist prior to termination of his probation, he shall immediately notify the Maryland Board of Pharmacy and have his therapist notify the Board of his status, directly;

6. That in the event that Respondent's therapist reports to the Maryland Board of Pharmacy that he is incapable of practicing pharmacy safely or that his previous problems are interfering with his ability to practice pharmacy, he

he shall voluntarily discontinue the practice of pharmacy until such time as his therapist indicates that he is capable of resuming the practice of pharmacy or until the Board of Pharmacy has given him permission to resume the practice of pharmacy;

7. That Respondent attend at least one (1) meeting each week of Alcoholics Anonymous or Narcotics Anonymous. Respondent shall have his presence verified in writing by the Group Secretary initialing a record to be kept by Respondent. The Respondent shall attach a copy of this record for the relevant quarter to the quarterly reports he submits to the Board.

8. That Respondent shall arrange for weekly observed random urine screenings with the results to be reported directly to his therapist. Respondent shall arrange for any positive reports to be immediately sent to the Maryland Board of Pharmacy. The urinalysis procedure shall be in a time, place, and manner satisfactory to the Maryland Board of Pharmacy. Further, the Respondent's therapist shall include the quarterly reports of Respondent's weekly observed random urine screenings in the therapist's report to the Board for the relevant quarter;

9. That Respondent shall immediately notify any and all of his pharmacy employers that he has been placed on probation by the Maryland Board of Pharmacy and inform those employers of the conditions of his probation by submitting to them copies of this Order. Within thirty (30) days of being hired as a pharmacist, Respondent shall submit written proof to the Maryland Board of Pharmacy that he has given a copy of this Order to all of Respondent's pharmacy employers and have his employers send to the Maryland Board, in writing, an

acknowledgement of receipt of this Order and a statement that the employer agrees to comply with all conditions thereof that pertain to employers;

10. That Respondent shall arrange for any and all of his pharmacy employers to submit to the Maryland Board of Pharmacy written quarterly reports evaluating his job performance and describing the nature of his duties and his position. The first report shall be due on September 1, 1987 (if Respondent is employed by then), and subsequent reports shall be filed quarterly until all conditions are removed from Respondent's license;

11. Respondent shall continue his contract with the Pharmacists Rehabilitation Committee of the Maryland Pharmaceutical Association dated September 19, 1986 until the termination of the contract. Respondent shall comply with all terms of that contract. In the event that the Pharmacists Rehabilitation Committee terminates Respondent's contract prior to the expiration of his probation period, the Respondent shall arrange for the Pharmacists Rehabilitation Committee to immediately notify the Maryland Board of Pharmacy of such action.

The Respondent shall arrange for the Pharmacists Rehabilitation Committee to forward to the Maryland Board of Pharmacy quarterly reports, commencing on September 1, 1987. These reports shall advise the Board of the extent to which Respondent is making satisfactory progress in therapy and in dealing with his problems of abuse of controlled dangerous substances.

12. In the event that Respondent changes jobs as a pharmacist or decides not to practice pharmacy, Respondent shall immediately notify the Maryland Board of Pharmacy, in writing, identifying his new employer by name, address and telephone number, and describing his new position.

13. Commencing on September 1, 1987, and then quarterly thereafter, Respondent shall send written reports to the Maryland Board of Pharmacy describing the progress he feels that he is making in treating his addiction and in his practice of pharmacy, what problems he feels that he presently faces and how he is coping with these problems.

14. That Respondent shall notify the Maryland Board of Pharmacy, in writing, of his current address. In the event that he moves, Respondent shall promptly notify the Maryland Board of Pharmacy in writing of the change of address and any change in his telephone number.

15. That Respondent immediately gives a copy of this Order to his probation officer and arrange for the probation officer to advise the Maryland Board of Pharmacy, in writing by September 1, 1987, of his receipt thereof;

16. That Respondent arrange for his probation officer to submit written quarterly reports to the Maryland Board of Pharmacy indicating what progress Respondent is making. The first report shall be due September 1, 1987. Such reports shall be due quarterly thereafter, until such time as Respondent has been terminated from probation;

17. That Respondent's wallet-size license to practice pharmacy shall indicate "conditional" licensure;

18. That Respondent will arrange at his expense to be evaluated by a therapist approved by the Board (which may be his regular current therapist) within one month of the time he applies for amendment of this Order for the purposes of being evaluated for progress in dealing with the problem of chemical dependency. Respondent shall further arrange for the therapist to send to the Maryland Board of

Pharmacy a written report indicating his/her findings;

19. That Respondent shall refrain from engaging in the conduct which led to revocation of his license to practice pharmacy under the Maryland Pharmacy Act;

20. That Respondent shall practice in accordance with the Maryland Pharmacy Act and in a competent manner; and be it further

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

ORDERED that in the event the Maryland Board of Pharmacy receives an unsatisfactory report which it believes in good faith to be accurate, or in the event that the Maryland Board of Pharmacy believes for any reason in good faith that Respondent has violated H.O. Sections 12-311(b) (4), (14), or (21), or any provision of Title 12 of the Health Occupations Article or regulations thereunder, the Board may take immediate action, including but not limited to revocation or suspension, without first giving Respondent an opportunity for a hearing. However, Respondent shall have a right to a hearing in accordance with the Administrative Procedure Act, State Government Article, Section 10-201, et seq., within thirty (30) days after Respondent notifies the Board in writing of his desire for such a hearing regarding the Board's action; but the Board may, in its discretion, fail to entertain such notice if received more than ninety (90) days after its action; and be it further

ORDERED that on or after September 19, 1988, the Board shall entertain a petition for termination of Respondent's probationary status and full reinstatement of his license to practice pharmacy without any conditions or

LAW OFFICES

T. JOSEPH TOUHEY, P.A.

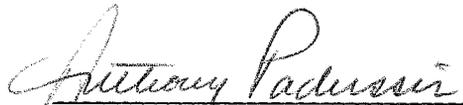
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restrictions as to the scope of practice. If the Board determines that the termination of probations and complete reinstatement would not be appropriate at that time, the Board may modify one or more of the conditions upon which Respondent was placed on probation. However, if Respondent fails to make any such petition then his probationary status shall continue indefinitely, subject to the conditions set forth in this Order: and be it further

ORDERED that if Respondent violates any of the terms of Respondent's probation, or if the Board receives an unsatisfactory report from Respondent's therapist, or if Respondent fails to practice in accordance with the laws governing the practice of Pharmacy in Maryland, or if Respondent fails to remain alcohol and drug free, the Board, after notification, a hearing and determination of violation may impose any disciplinary sanctions it deems appropriate.



President, Anthony Padussis, P.D.
Maryland Board of Pharmacy

LAW OFFICES

T. JOSEPH TOUHEY, P.A.

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GILBERT, MARYLAND, 21061

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CONSENT

I, Kim Michael Hulko, P.D., by affixing my signature hereto acknowledge:

1. That I have been advised to seek advise of counsel prior to signing this document; that I have in fact sought advice of counsel prior to signing this document;

2. That I am aware that without my consent, no legal action can be taken against me, except pursuant to the Maryland Administrative Procedure Act, State Government Article, Section 10-201 et seq., Annotated Code of Maryland;

3. That I have the following rights, among others: to have a formal evidentiary hearing before the Board, to reasonable notice of said hearing, to representation by counsel, and to subpoena and cross-examine witnesses against me;

4. That I waive all such rights to a formal hearing;

5. That I admit to the truth of the foregoing Findings of Fact;

6. That I consent to the entry of the foregoing Order affecting my license to practice pharmacy in the State of Maryland;

7. That I acknowledge the validity of this Consent Order as if it were made following a formal hearing before the Board;

8. That I enter into this Consent Order of my own free will and under no duress or undue influence.


Kim Michael Hulko

STATE OF MARYLAND)

ANNE ARUNDEL COUNTY) to wit:

On this 17th day of July, 1987, Kim Micheal Hulko, P.D., known to me (or satisfactorily proven) to be the person whose name appears on the above signature line appeared before me and acknowledged that he executed the above Consent under oath administered by me.

Sharon M Campbell
Notary Public

My Commission Expires: 7-1-90

