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IN THE MATTER OF	* BEFORE THE
MELVIN BRUCE PACHINO, P.D.	* MARYLAND STATE
LICENSE NO. 10300	* BOARD OF PHARMACY
Respondent	*

\* \* \* \* \*

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 Melvin Bruce Pachino, P.D., License No. 10300 (the "Respondent"), with violations of §12-313 of the Act.

The Board also charged Respondent with violation of certain provisions of Maryland Health Occupations Article, Code Annotated §12-313. Specifically, the Board charged Respondent with violation of the following provisions:

Subject to the hearing provisions of §12-313 of this subtitle, the Board, on the affirmative vote of a 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:

- (14) Without first having received a written or oral prescription for the drug from an authorized prescriber, dispenses any drug for which a prescription is required;
- (20) Is professionally...incompetent;
- (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.

The Respondent was given notice of the charges and the issues underlying those charges by letter and charging document sent to Respondent on February 27, 1996. A prehearing conference on those charges was held on April 18, 1996, and was attended by George Voxakis, P.D., President of the Board, Theodore Litwin, a consumer member of the Board, Paul Ballard, Assistant Attorney General, Counsel for the Board and Norene Pease, Executive Director of the Board. Also in attendance were Respondent; his attorney, Charles F. Bernstein, Esquire and the Administrative Prosecutor, Janet Klein Brown, Assistant Attorney General.

As a result of negotiations entered into at the prehearing conference the parties and the Board 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 has been the <sup>CO-OWNER</sup> owner of Colonial Pharmacy, located at 7004 Reisterstown Road, Baltimore, Maryland 21215.
3. On or about November 18, 1994, Respondent met a female police informant, working under cover, in a parking lot to the rear of the Colonial Pharmacy.
4. On or about November 18, 1994, Respondent gave the female informant a bag that contained prescription drugs, without first

receiving a prescription for the drugs from an authorized prescriber. One of the drugs which Respondent gave her was five (5) tablets of chlordiazepoxide, a schedule IV, controlled dangerous substance.

5. On or about May 25, 1995, Respondent pled guilty in the Circuit Court for Baltimore County, Criminal Case No. 95CR0848 to a charge of Unlawful Distribution of a Controlled Dangerous Substance under Article 27 §286, Annotated Code of Maryland.

6. Respondent received probation before judgment, was placed on supervised probation and required to perform community service. Thereafter, Respondent was placed on two years unsupervised probation.

7. Dispensing a drug without first receiving a prescription from an authorized prescriber violates §12-313(b)(14) and §12-313(b)(20) of the Pharmacy Act.

8. Pleading guilty to unlawful distribution of a controlled dangerous substance violates §12-313(b)(21).

#### CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law, that Respondent violated §12-313(14), (20), and (21) of the Act.

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law, and agreement of the parties, it is this 10<sup>th</sup> day of May, 1996, by a majority of a quorum of the Board, hereby

ORDERED that the license of Respondent be SUSPENDED for two (2) years, but that the suspension shall be immediately STAYED and Respondent shall be placed on PROBATION, subject to the following conditions:

1. Respondent shall complete a college level professional ethics course and provide documentation to the Board of having received a passing grade;

2. Respondent shall complete fifteen (15) hours of continuing education credits on the dispensing of controlled dangerous substances, such credits to be in addition to the usual continuing education requirements for maintaining a pharmacist license.

3. Respondent shall provide a copy of this Order to his pharmacy ~~employer~~<sup>partner/ msp</sup>. Within 10 days of the date of this Order, Respondent shall arrange for his ~~employer~~<sup>partner/ msp</sup> to acknowledge in writing to the Board that the ~~employer~~<sup>partner/ msp</sup> has received a copy of the Order and agrees to comply with the conditions pertaining to the ~~employer~~<sup>partner/ msp</sup>.

4. Respondent shall not be employed as a "floater" pharmacist.

5. Respondent shall arrange for his ~~employer~~<sup>partner/ msp</sup>, and Respondent himself, to submit written quarterly reports to the Board reporting on Respondent's compliance with this Order and his progress. The

reports shall be due on March 1, June 1, September 1, and December 1 of each year until Respondent has been terminated from probation. The first set of reports shall be due June 1, 1996 and the remaining reports will be due quarterly thereafter.

6. In the event that Respondent moves, he shall promptly notify the Board in writing of the change of address and of any change in his home and work telephone numbers.

7. Respondent shall refrain from engaging in the conduct which led to his suspension from the practice of pharmacy under the Maryland Pharmacy Act.

8. Within three months prior to two years from the date of this Order, Respondent shall be evaluated by the psychologist who had evaluated Respondent prior to sentencing in the criminal case, or by any other mental health professional approved by the Board, to assess Respondent's fitness to practice pharmacy without any probationary conditions or restrictions. Prior to the evaluation Respondent shall provide the evaluator a copy of this Order and shall request the Board to provide the evaluator with a copy of the November 18, 1994 Supplemental Report of the Drug Enforcement Division of the Department of Maryland State Police.

9. Respondent shall arrange for the evaluator to submit a copy of the evaluation required in condition 8 to the Board.

10. Respondent shall abide by the conditions of probation in criminal case No. 95CRO848.

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

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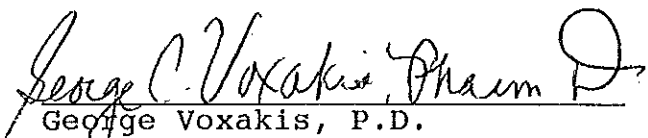
ORDERED that the conditions of this Consent Order be, and the same is hereby, effective as of the date of this Consent Order; and be it further

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 finds for any reason in good faith that Respondent has violated any provision of Title 12 of the Health Occupations Article or regulations thereunder or violated any of the conditions of Probation hereunder, the Board may take immediate action, including, but not limited to, revocation or suspension of the Respondent's license to practice Pharmacy prior to giving the 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 10-210 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. 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 two (2) years from the date of this Order, Respondent shall be notified of a scheduled time at which Respondent shall petition the Board for termination of Respondent's probationary status and full reinstatement of his license to practice without any conditions or restrictions. If the Board

determines that the termination of probation and complete reinstatement would be inappropriate at the time, the Board may modify one or more of the conditions upon which Respondent was placed on probation; and be it further

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

  
George Voxakis, P.D.  
President  
Maryland Board of Pharmacy

CONSENT OF MELVIN BRUCE PACHINO, P.D.

I, Melvin Bruce Pachino, P.D., by affixing my signature hereto, acknowledge that:

1. I am represented by an attorney, Charles G. Bernstein, Esq. and have consulted with him about signing this agreement.


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.

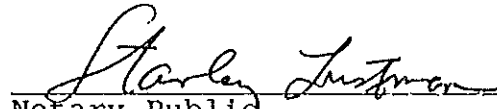
5/6/96  
Date

  
Melvin Bruce Pachino, P.D.

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

I HEREBY CERTIFY that on this 6th day of May, 1996, a Notary Public of the State of Maryland and City/County aforesaid, personally appeared Melvin Bruce Pachino, P.D., License No. 10300, 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.

  
Notary Public