

IN THE MATTER OF  
JOEL SWARTZ, P.D.  
LICENSE NO. 06928

\* BEFORE THE  
\* STATE BOARD  
\* OF PHARMACY  
\* Case No. 09-074

Respondent

\* \* \* \* \*

FINAL CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Pharmacy (the "Board"), and subject to Md. Health Occ. Ann. § 12-101, *et seq.*, (2009 Repl. Vol. and 2010 Supp...) (the "Act"), the Board charged Joel Swartz, P.D., (the "Respondent"), with violations of the Act. Specifically, the Board charged the Respondent with violation of the following provisions of § 12-313:

(a) In this section, "convicted" includes a determination of guilt, a guilty plea, or a plea of nolo contendere followed by a sentence.

(b) Subject to the hearing provisions of § 12-315 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:

(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 issues underlying the Board's charges by a letter August 25, 2010. Accordingly, a Case Resolution Conference was held on December 8, 2010, and was attended by Rodney Taylor, P.D., and Zeno St. Cyr, Board members, and Linda Bethman, Counsel to the Board. Also in attendance were the Respondent, who knowingly and voluntarily waived his right to an attorney, and the Administrative Prosecutor, Roberta Gill, Assistant Attorney General.

Following the Case Resolution Conference, over the objections of the Administrative Prosecutor, the Respondent and the Board agreed to resolve the matter by way of settlement. The Respondent and the Board agreed to 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. The Respondent was first licensed on June 10, 1968. The Respondent's license expired on May 31, 2010.

2. On December 15, 2009, the Respondent pled guilty and was found guilty as to Count One of the Amended Judgment, which charged him with conspiracy to commit bank fraud in violation of Federal law.

3. The basis of the plea was that from around July 2000 through December 31, 2008 in the District of Maryland, the Respondent conspired and agreed with his wife, Esther Swartz, now deceased, to knowingly and willfully execute a scheme to defraud financial institutions and businesses by using the credit accounts of the Respondent's deceased parents. The Respondent failed to notify the financial institutions with which his parents held credit accounts that his parents had died, and he and his wife began using the accounts for their own purposes, although he was not authorized to make charges on those accounts. For over seven years, the Respondent and his wife, as part of the ongoing conspiracy, accessed the existing credit accounts in the names of the Respondent's deceased parents, to purchase goods and services for his own use and enjoyment, including air travel, vacations, spa treatments, and renovations and furnishings for the two

residences the Respondent and his wife owned in Ocean City. Eventually, the Respondent defaulted on all for the accounts and is responsible for repayment \$75,197.14.

4. The Respondent was: committed to the custody of the United States Bureau of Prisons for time served; placed on supervised release for a term of three years, with conditions, including home detention for six months; to participate in a mental health treatment program approved by the probation officer related to substance and/or alcohol abuse; to not incur new credit charges or opening additional lines or credit without approval of the probation officer; to perform 100 hours of community services, as directed by the probation officer; to pay \$125 assessment; and, to make restitution of \$75,197.14 to the Clerk, US District Court and, a fine of \$2500 unless the restitution is paid in full before the fifteenth day after the date of the judgment. The restitution is to be paid in monthly installments of \$150 over a period of three years while the Respondent is on supervised release.

5. As set forth above, the Respondent violated the Act.

#### **CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated §12-313 (a), (b), (21).

## ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the Respondent and the Board, it is this 15<sup>th</sup> day of February, 2012, by a majority of a quorum of the Board,

**ORDERED** that the Respondent's license to practice pharmacy is hereby curtailed until such time as he has been evaluated, at his own expense by a Board-approved therapist with regard to his fitness to practice. The Respondent shall ensure that he provides the Evaluator with access to his own therapist and that therapist's records. That evaluation took place and the Board reviewed the report. Based upon the report of the therapist, who opined that the Respondent was mentally fit to practice pharmacy, the Board fashioned and the Respondent agreed to the following Order regarding the scope of the Respondent's practice:

- A. The Respondent shall be placed on two years' Probation subject to the following terms:
1. The Respondent shall function as a pharmacy technician for the first three months and ensure that the pharmacy employer submit monthly employer reports to the Board;
  2. For the remaining period of the probation, the Respondent is to ensure that the pharmacy employer submit quarterly employer reports to the Board;

3. Within the first year of probation, the Respondent shall successfully take and pass a Board-pre-approved college-level ethics course; and,
  4. The Respondent shall not own or manage a pharmacy;
- B. The Respondent is responsible for any costs associated with compliance with the terms of the Order.

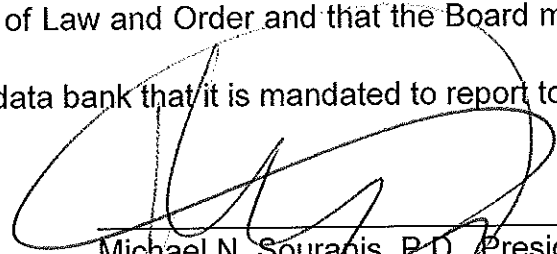
**ORDERED** that the Consent Order is effective as of the date of its signing by the Board; and be it

**ORDERED** that, should the Board receive a report that the Respondent has violated the Act or, if the Respondent violates any conditions of this Order or of Probation, after providing the Respondent with notice and an opportunity for a hearing, the Board may take further disciplinary action against the Respondent, including suspension or revocation. The burden of proof for any action brought against the Respondent as a result of a breach of the conditions of the Order or of Probation shall be on the Respondent to demonstrate compliance with the Order or conditions; and be it

**ORDERED** that the Respondent shall practice in accordance with the laws and regulations governing the practice of pharmacy in Maryland; and be it further

**ORDERED** that, at the end of the Probationary period, the Respondent may petition the Board to be reinstated without any conditions or restrictions on his license, provided that he can demonstrate compliance with the conditions of this Order. Should the Respondent fail to demonstrate compliance, the Board may impose additional terms and conditions of Probation, as it deems necessary;

**ORDERED** that for purposes of public disclosure, as permitted by Md. State Gov't. Code Ann. §10-617(h) (Repl. Vol. 2009), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law and Order and that the Board may also disclose same to any national reporting data bank that it is mandated to report to.



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Michael N. Souranis, P.D., President  
State Board of Pharmacy

**CONSENT OF JOEL SWARTZ, P.D.**

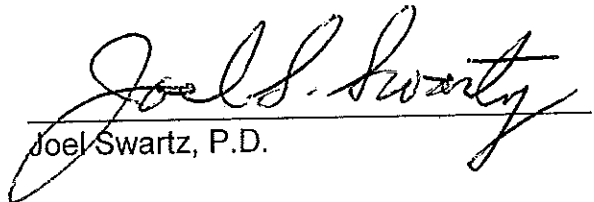
I, Joel Swartz, P.D., acknowledge that I am not represented by counsel and have not consulted with counsel before entering into this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.

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 provided by the law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed after any such hearing.

I sign this Consent Order, voluntarily and without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

1-24-12

Date

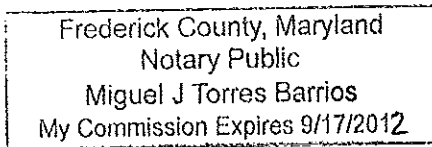
  
Joel Swartz, P.D.

STATE OF Maryland :

CITY/COUNTY OF Montgomery :

I HEREBY CERTIFY that on this 24<sup>th</sup> day of January, 2011, before me, Miguel J Torres Barrios, a Notary Public of the foregoing State and (City/County),  
(Print Name)  
personally appeared Joel Swartz, P.D., License No. 06928, 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.



  
Notary Public

My Commission Expires: 2012-09-17