



# OHIO STATE BOARD OF PHARMACY

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## ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-060706-001)

In The Matter Of:

**RUDOLPH ALAN KOZAN, R.Ph.**

8851 Doral

Mentor, Ohio 44060

(R.Ph. No. 03-1-10873)

### INTRODUCTION

THE MATTER OF RUDOLPH ALAN KOZAN CAME FOR HEARING ON MARCH 5, 2007, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: JAMES E. TURNER, R.Ph. (presiding); GREGORY BRAYLOCK, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; ELIZABETH I. GREGG, R.Ph.; NATHAN S. LIPSYC, R.Ph.; HEATHER L. PASQUALE, R.Ph.; AND DOROTHY S. TEATER, PUBLIC MEMBER.

RUDOLPH ALAN KOZAN WAS REPRESENTED BY ANTHONY G. PALMIERI, JR. THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

### SUMMARY OF EVIDENCE

#### State's Witness

1. Frank J. Bodi, Ohio State Board of Pharmacy

#### Respondent's Witness

1. Rudolph A. Kozan, R.Ph., Respondent

#### State's Exhibits

1. Notice of Opportunity For Hearing letter [07-06-06]  
1A-1C. Procedurals
2. Statement of Rudy Kozan [03-07-06]
3. MGI Security Department Incident Report [03-07-06]
4. Copy of four photographs [02-11-06 to 02-19-06]
5. Notarized Statement of Rudolph A. Kozan [03-15-06]
6. Electronic Mail Message from Rudy302 to Franke 95 [03-21-06]
7. Letter from Rudy Kozan to Barbara Carlson [02-10-07]

#### Respondent's Exhibits

- A. Copy of Evaluation letter from Deborah Bonem, L.I.S.W. [02-08-07]
- B-D. Three letters of support and character reference [02-25-06 to 02-25-07]

- E. Letter from Anthony G. Palmieri, Jr. to William T. Winsley, M.S., R.Ph. [09-08-06]
- F. Letter from Anthony G. Palmieri, Jr. to William T. Winsley, M.S., R.Ph. [03-05-07]
- G. Copy of Restitution documentation [03-07-06 to 09-21-06]

#### FINDINGS OF FACT

After having heard the testimony, observed the demeanor of the witnesses, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds the following to be fact:

- (1) Records of the State Board of Pharmacy indicate that Rudolph Alan Kozan was originally licensed by the State of Ohio as a pharmacist on July 30, 1974, pursuant to examination, and is currently licensed to practice pharmacy in Ohio.
- (2) Rudolph Alan Kozan did, from September, 2005, through February, 2006, with purpose to deprive, knowingly obtain or exert control over the property of another by deception, to wit: Rudolph Alan Kozan admittedly stole cash from his employer, Marc's Pharmacy, by under-ringing sales and/or prescription co-payments and pocketing the cash. Rudolph Alan Kozan has admitted to doing this 2 to 3 times per week, stealing between \$30.00 and \$50.00 each time, stealing a total of approximately \$2,400.00. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

#### CONCLUSIONS OF LAW

- (1) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of gross immorality as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) The State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.

#### DECISION OF THE BOARD

Pursuant to Section 4729.16 of the Ohio Revised Code, and after consideration of the record as a whole, the State Board of Pharmacy hereby adjudicates the matter of Rudolph Alan Kozan as follows:

- (A) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby suspends for six months the pharmacist identification card, No. 03-1-10873, held by Rudolph Alan Kozan effective as of the date of the mailing of this Order. Further, the Board suspends three months of the suspension.
  - (1) Rudolph Alan Kozan, pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, may not be employed by or work in a facility licensed by the State Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.
  - (2) Rudolph Alan Kozan pursuant to Section 4729.16(B) of the Ohio Revised Code, must return his identification card and license (wall certificate) to

the office of the State Board of Pharmacy within ten days after receipt of this Order unless the Board office is already in possession of both. The identification card and wall certificate should be sent by certified mail, return receipt requested.

- (B) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby imposes on Rudolph Alan Kozan a monetary penalty of one thousand dollars (\$1,000.00) due and owing within thirty days of the issuance of this Order. The monetary penalty should be made payable to the "Treasurer, State of Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, Room 1702, Columbus, Ohio 43215-6126.
- (C) On the basis of the Findings of Fact and Conclusions of Law set forth above, the State Board of Pharmacy hereby places Rudolph Alan Kozan on probation for two years effective upon reinstatement of his identification card. The terms of probation are as follows:
- (1) The State Board of Pharmacy hereby declares that Rudolph Alan Kozan's pharmacist identification card is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code.
  - (2) Rudolph Alan Kozan may not serve as a responsible pharmacist.
  - (3) Rudolph Alan Kozan must not violate the drug laws of Ohio, any other state, or the federal government.
  - (4) Rudolph Alan Kozan must abide by the rules of the State Board of Pharmacy.
  - (5) Rudolph Alan Kozan must comply with the terms of this Order.
  - (6) Rudolph Alan Kozan's license is deemed not in good standing until successful completion of the probationary period.
  - (7) Any violation of probation may result in a Board hearing to consider alternative or additional sanctions under Section 4729.16 of the Ohio Revised Code.

Rudolph Alan Kozan is hereby advised that the Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-6/Nay-1).

MOTION CARRIED.

SO ORDERED.

It is hereby certified by this Board that the above language is a copy of the Order entered upon its journal in this case.

Section 119.12 of the Ohio Revised Code authorizes an appeal from this Order. An order that denied admission to an examination, or denied the issuance or renewal of a license or registration, or revoked or suspended a license, may be appealed to the court of common pleas in the Ohio county of your place of business or in your Ohio county of residence. Any other order may be appealed to the Court of Common Pleas of Franklin County, Ohio.

Such an appeal, setting forth the order appealed from and the grounds of the appeal, must be commenced by the filing of a Notice of Appeal with both the State Board of Pharmacy and the appropriate court within fifteen (15) days after the mailing of this Order and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

**BY ORDER OF THE STATE BOARD OF PHARMACY**

ORDER MAILED & EFFECTIVE: **April 12, 2007**

CERTIFIED MAIL/Return Receipt  
7004 2510 0006 9805 7806

WTW/lf

By: \_\_\_\_\_  
William T. Winsley, M.S., R.Ph., Executive Director

c: Sally Ann Steuk, Assistant Attorney General  
Anthony G. Palmieri, Jr., Attorney for Respondent; 700 West St. Clair Avenue, Suite 210;  
Cleveland, Ohio 44113-1274