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Arizona State Board of Pharmacy

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8
9 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

10
11 In the Matter of

12 **Olufemi Omodara**
(Pharmacist -in-Charge)

13 Holder of Pharmacist License
14 No. S011406 in the State of Arizona

15 and

16 **Favor Rexall Drugs**
(Park Central Pharmacy)

17 Holder of Pharmacy Permit No.
18 Y004318 in the State of Arizona

Board Case No. 13-0005-PHR

**CONSENT AGREEMENT
FOR PROBATION AND
CIVIL PENALTY**

19
20
21 In the interest of a prompt and judicious settlement of this case, consistent with the
22 public interest, statutory requirements and the responsibilities of the Arizona State Board
23 of Pharmacy ("Board") under A.R.S. § 32-1901, *et. seq.*, Olufemi Omodara and Favor
24 Rexall Drugs (Park Central Pharmacy) ("Respondents"), holders of Pharmacist License
25 Number S011406 and Pharmacy Permit Number Y004318 respectively in the State of
26

1 Arizona, and the Board enter into the following Recitals, Findings of Fact, Conclusions
2 of Law and Order ("Consent Agreement") as a final disposition of this matter.

3 RECITALS

4 1. Respondents have read and understand this Consent Agreement and have
5 had the opportunity to discuss this Consent Agreement with an attorney, or have waived
6 the opportunity to discuss this Consent Agreement with an attorney.

7 2. Respondents understand that they have a right to a public administrative
8 hearing concerning this matter at which hearing it could present evidence and cross
9 examine witnesses. By entering into this Consent Agreement, Respondents knowingly
10 and voluntarily relinquish all right to such an administrative hearing, as well as rights of
11 rehearing, review, reconsideration, appeal, judicial review or any other administrative
12 and/or judicial action, concerning the matters set forth herein.

13 3. Respondents affirmatively agree that this Consent Agreement shall be
14 irrevocable.

15 4. Respondents understand that this Consent Agreement or any part of the
16 agreement may be considered in any future disciplinary action by the Board against them.

17 5. Respondents understand this Consent Agreement deals with Board
18 Complaint No. 4147 involving allegations of unprofessional conduct against
19 Respondents. The investigation into these allegations against Respondents shall be
20 concluded upon the Board's adoption of this Consent Agreement.

21 6. Respondents understand that this Consent Agreement does not constitute a
22 dismissal or resolution of any other matters currently pending before the Board, if any,
23 and does not constitute any waiver, express or implied, of the Board's statutory authority
24 or jurisdiction regarding any other pending or future investigation, action or proceeding.

25 7. Respondents also understand that acceptance of this Consent Agreement
26 does not preclude any other agency, subdivision, or officer of this State from instituting

1 any other civil or criminal proceedings with respect to the conduct that is the subject of
2 this Consent Agreement.

3 8. Respondents acknowledge and agree that, upon signing this Consent
4 Agreement and returning this document to the Board's Executive Director, they may not
5 revoke its acceptance of the Consent Agreement or make any modifications to the
6 document regardless of whether the Consent Agreement has been signed by the
7 Executive Director. Any modification to this original document is ineffective and void
8 unless mutually agreed by the parties in writing.

9 9. This Consent Agreement is subject to the approval of the Board and is
10 effective only when accepted by the Board and signed by the Executive Director. In the
11 event that the Board does not approve this Consent Agreement, it is withdrawn and shall
12 be of no evidentiary value and shall not be relied upon nor introduced in any action by
13 any party, except that the parties agree that should the Board reject this Consent
14 Agreement and this case proceeds to hearing, Respondent shall assert no claim that the
15 Board was prejudiced by its review and discussion of this document or any records
16 relating thereto.

17 10. If a court of competent jurisdiction rules that any part of this Consent
18 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement
19 shall remain in full force and effect.

20 11. Respondents understand that this Consent Agreement is a public record that
21 may be publicly disseminated as a formal action of the Board and may be reported as
22 required by law to the National Practitioner Data Bank and the Healthcare Integrity and
23 Protection Data Bank.

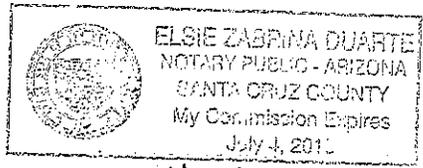
24 12. Respondents understand that any violation of this Consent Agreement
25 constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-
26 1901.01(B) (20), -1927(A) (1).

1 13. Respondents agree that the Board will adopt the following Findings of Fact,
2 Conclusions of Law and Order.

3
4 **ACCEPTED AND AGREED BY RESPONDENT**

5 *[Signature]* 12-28-12 Dated:
6 _____

7 Olufemi Omodara (Pharmacist-in-Charge)



8
9 Subscribed and sworn to before me in the County of Maricopa, State of
10 Arizona, this 28th day of December, 2012, by Olufemi Omodara.

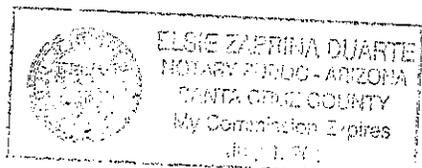
11 _____
12 *[Signature]*
13 NOTARY PUBLIC

14 My Commission expires: July 4, 2013

15
16 **ACCEPTED AND AGREED BY RESPONDENT**

17 *[Signature]* 12-28-12 Dated:
18 _____

19 Favor Rexall Drugs (Park Central Pharmacy)



20
21 Subscribed and sworn to before me in the County of Maricopa, State of
22 Arizona, this 28th day of December, 2012, by Favor Rexall Drugs
(Park Central Pharmacy).

23 _____
24 *[Signature]*
25 NOTARY PUBLIC

26 My Commission expires: July 4, 2013

FINDINGS OF FACT

1
2 1. The Board is the duly constituted authority for licensing and regulating the
3 practice of pharmacy in the State of Arizona.

4 2. Respondents are the holders of pharmacist license number S011406 and
5 pharmacy permit number Y004318 respectively in the State of Arizona.
6

7 3. During all relevant times to these findings, Respondents operated at Park
8 Central Pharmacy until August 31, 2012, when the permit was relocated to 4207 N. 19th
9 Avenue, Phoenix, Arizona 85015 and renamed Favor Rexall Drugs ("Pharmacy").

10 4. On August 16, 2012 Respondents dispensed prescription number 701890
11 for caffeine citrate 3 ml. oral solution for patient M. D. and arranged to have the
12 prescription delivered by carrier to the patient's home. The carrier left the prescription
13 on the patient's doorstep. The prescription was not discovered by the patient's mother
14 until two days later. Before the patient's mother returned the prescription to the
15 Pharmacy because of her concern that the medication had been exposed to high
16 temperatures for two days she marked the medication vials she returned with a purple dot
17 and recorded the medication lot numbers. Respondents returned some of the medication
18 to the wholesaler on September 4, 2012 as saleable (new) product.
19
20

21 5. On September 12, 2012 Respondents dispensed prescription number
22 703524 to patient M. D using some of the previously dispensed vials that had been
23 returned to the pharmacy after having been left exposed to temperatures exceeding the
24 manufacturer's storage/excursion range for two days. Patient M. D.'s mother recognized
25 the purple dots she had placed on the medication vials that she returned and she
26

1 confirmed the lot numbers she had recorded matched the lot numbers on the medication
2 previously dispensed and delivered.

3 6. On October 5, 2012 Compliance Officer Haiber conducted a follow-up
4 inspection of the Pharmacy and found forty four (44) outdated medications were within
5 the saleable inventory area of the pharmacy.
6

7 7. On October 5, 2012 Compliance Officer Haiber conducted a follow-up
8 inspection of the Pharmacy and found fifteen (15) mislabeled (expiration dates were
9 missing) medications were within the saleable inventory area of the pharmacy.
10

11 8. On October 26, 2012 Compliance Offices Haiber conducted a follow-up
12 inspection of the Pharmacy and found an additional twenty seven (27) outdated
13 medications were within the saleable inventory area of the pharmacy.

14 9. During his investigation of the incident described in paragraphs 4 and 5
15 above Compliance Officer Haiber spoke to Respondent Omodara on October 23, 2012.
16 During this conversation Respondent Omodara expressed her concern regarding storage
17 of cocaine powder, admitted that the Pharmacy did not have a safe and that she was
18 storing Cocaine HCL powder in her personal vehicle rather than in the Pharmacy.
19

20 10. During his inspection on October 26, 2012 Compliance Officer Haiber
21 inspected the Pharmacy's controlled substances inventory for Cocaine HCL powder and
22 found that the Pharmacy had failed to maintain and make entries in the inventory for the
23 past five (5) years.
24

25 11. During his inspection on October 26, 2012 Compliance Officer Haiber
26 conducted a follow-up inspection of the front end inventory and to obtain invoices for

1 purchases made by Favor Rexall Drugs from Anza Valley Pharmacy located in Anza,
2 California. Compliance Officer Haiber was provided five (5) Amerisource-Bergen
3 invoices between December 9, 2010 and April 11, 2011 from Anza Valley Pharmacy
4 which included caffeine citrate but failed to accurately document or record Respondent as
5 the receiving pharmacy.
6

7 12. During his inspection on October 5, 2012 Compliance Officer Haiber
8 observed a bottle of Temodar 140 mg. on the prescription inventory shelves with a
9 Curascript prescription label. Compliance Officer Haiber questioned Respondents' staff
10 pharmacist Khang Nguyen and was informed that the Pharmacy had a patient profile for a
11 J.M., the prescription was for patient J.M. and a record of a Temodar 140 mg. order last
12 filled on December 12, 2011. Mr. Nguyen could not explain why a Curascript labeled
13 bottle of Temodar 140 mg. was on the Pharmacy's inventory shelf.
14

15 CONCLUSIONS OF LAW

16 1. The Board possesses jurisdiction over the subject matter and over
17 Respondent pursuant to A.R.S. § 32-1901 *et seq.*
18

19 2. The Board may discipline a permit holder which has engaged in
20 unprofessional conduct. A.R.S. § 32-1927.02 (A) (1).
21

22 3. The Board may discipline a license holder who has engaged in
23 unprofessional conduct. A.R.S. § 32-1927 (A) (1).
24

25 4. The conduct and circumstances described above constitutes unprofessional
26 conduct pursuant to A.R.S. § 32-1901.01(A)(5) (Violating a federal or state law,
administrative rule relating to the manufacture, sale or distribution of drugs, devices,
poisons, hazardous substances or precursor chemicals).
27

28 5. The conduct and circumstances described above constitutes unprofessional
29

1 conduct pursuant to A.R.S. § 36-2523 (A) (A person registered to manufacture, distribute
2 or dispense controlled substances under this chapter shall keep records and maintain
3 inventories in conformance with the record keeping and inventory requirements of
4 federal law and title 32, chapter 18, and with any additional rules the board issues).

5 6. The conduct and circumstances described above constitutes unprofessional
6 conduct pursuant to A.A.C. R4-23-409 (A) (2) (After a person for whom a drug is
7 prescribed or the person's agent takes the drug from the premises where sold, distributed,
8 or dispensed, a pharmacist or pharmacy permittee shall not accept the drug for return or
9 exchange for the purpose of resale unless the pharmacist determines that; (2) the drug or
10 its contained has not been subject to contamination of deterioration).

11 7. The conduct and circumstances described above constitutes unprofessional
12 conduct pursuant to A.A.C. R4-23-601 (D) (1), (2), (3) and (4).

13 8. The conduct and circumstances described above constitutes unprofessional
14 conduct pursuant to A.A.C. R4-23-610 (G) (2) (A pharmacist shall ensure that
15 prescription medication is not left outside the prescription area or picked up by the patient
16 when the pharmacist is not present by either; (2) securing the prescription medication
17 inside the locked pharmacy, except when using an automated storage and distribution
18 system that complies with the requirements of A.A.C. R4-23-614.

19 9. The conduct and circumstances described above constitutes unprofessional
20 conduct pursuant to A.A.C. R4-23-611 (B) (4).

21 10. The conduct and circumstances described above constitutes unprofessional
22 conduct pursuant to 21 C.F.R. 1301.75 (b) (Controlled substances listed in Schedules II,
23 III, IV and V shall be stored in a securely locked, substantially constructed cabinet).

24 11. The conduct and circumstances above constitutes unprofessional conduct
25 pursuant to A.R.S. § 36-2523 (A) & (B) and A.A.C. R4-1003 (A).

26

1 g. Respondents shall obey all federal and state laws and rules
2 governing the practice of pharmacy.

3 h. Respondents shall appear before the Board at a regularly scheduled
4 Board meeting one (1) year after the effective date of this Order to request
5 that the probation imposed by this Order be terminated. Respondents'
6 failure to petition the Board to terminate the probation shall extend the
7 probation period.

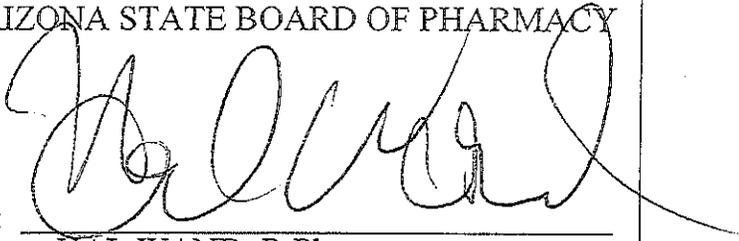
8 2. Respondents shall pay all costs associated with complying with this
9 Consent Agreement.

10 3. If Respondents violate this Order in any way or fail to fulfill the
11 requirements of this Order, the Board, after giving the Respondents notice and the
12 opportunity to be heard, may revoke, suspend or take other disciplinary actions against
13 Respondents' license or permit. The issue at such a hearing will be limited solely to
14 whether this Order has been violated.

15
16 DATED this 25 day of January, 2013

17
18 (Seal)

ARIZONA STATE BOARD OF PHARMACY

19
20
21 By: 

HAL WAND, R.Ph.
Executive Director

1 ORIGINAL OF THE FOREGOING FILED
this 25 day of January 2013 with:

2 Arizona State Board of Pharmacy
3 1616 W. Adams St.
4 Phoenix, Arizona 85007

5 EXECUTED COPY OF THE FOREGOING MAILED
BY CERTIFIED MAIL

6 this 25 day of January 2013 to:

7 Olufemi Omodara and
8 Favor Rexall Drugs (Park Central Pharmacy)
4207 N. 19th Ave.
9 Phoenix, Arizona 85015

10 EXECUTED COPY OF THE FOREGOING MAILED

11 this 25 day of January 2013 to:

12 Montgomery Lee
13 Assistant Attorney General
1275 W. Washington Street, CIV/LES
14 Phoenix, Arizona 85007
Attorney for the Board

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16 Doc # 2947532

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