

Filed By

JUN 10 2019

KANSAS STATE BOARD OF PHARMACY

BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)
)
ALEXSO, INC)
_____)

Case No. 16-174

STIPULATION AND CONSENT ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the Kansas Pharmacy Board (the "Board") and Alexso, Inc., 2317 Cotner Ave., Los Angeles, CA 90064 ("Respondent") as follows:

1. The Board is represented herein by its attorney, Randall J. Forbes of Frieden & Forbes, LLP, 1414 SW Ashworth Place, Suite 201, Topeka, Kansas 66604. The Respondent is represented herein by its attorney,

_____.

2. The Board is the Kansas agency vested with the authority to carry out and enforce the provisions of the Kansas Pharmacy Law, K.S.A. 65-1626 *et seq.*, (the "Act") including conducting hearings and proceedings to revoke, suspend or otherwise discipline a Kansas registration to operate a pharmacy.

3. The Respondent has submitted a Registration Application to operate as a drug distributor in the State of Kansas to the Board ("Kansas Application"). Respondent was previously registered to operate as a drug distributor in the State of Kansas by virtue of Kansas Registration number 5-31309, issue by the Board on June 4, 2015 and which expired on August 31, 2017.

4. Prior to expiration of its Kansas Registration on August 31, 2017, Respondent submitted a renewal application to the Board; however, said renewal application was not

Matter of Alexso, Inc., No. 16-174 (Kan. Bd. of Pharmacy)

STIPULATION AND CONSENT ORDER

granted due to numerous disciplinary issues relating to Respondent's former shareholder, President and Pharmacist-in-Charge ("PIC") Hootan Melamed ("Melamed"). This Stipulation and Consent Order relates to the Kansas Application.

5. The Board's Investigative Member has received certain information, investigated and determined that there are reasonable grounds to believe that Respondent has operated in a manner that violates the Act.

6. Respondent hereby waives any further proof in this or any other proceeding before or initiated by the Board with respect to this matter, and upon motion duly made, seconded and passed, the Board finds the following:

A. Melamed was previously a shareholder, director, and the PIC of Respondent. Moreover, Melamed was also the President and PIC of Concierge Compounding Pharmacy ("Concierge").

B. In 2001, Melamed was found guilty of felony conspiracy to commit securities fraud involving a "pump and dump" scheme in the stock market, through artificially inflating share prices of a company by posting false information on internet and conspirators profited in amount of \$211,250.00, in Case No. CR00-7-GAF in the United States District Court for Central District of California.

C. On or about August 15, 2013, Concierge's distributor application and Melamed's licensure application to the South Carolina State Board of Pharmacy was denied for a number of reasons, including "serious concerns regarding the accuracy and completeness of compounded formulas provided in the application" and that the South Carolina Board "does not believe the applicant has met the standards of pharmacy practice as required by South Carolina law."

D. On or about August 16, 2013, Concierge and Melamed received 1-year suspensions from the Texas Board of Pharmacy due in part to Melamed's felony conviction.

E. On or about October 15, 2013, the Oregon Board of Pharmacy entered into a Consent Order with Concierge, finding that Concierge engaged in the distribution of drugs into Oregon without registering with the Oregon Board as a drug outlet in violation of Oregon law. The Oregon Board of Pharmacy assessed a civil penalty against Concierge through the Consent Order.

F. On or November, 25 2014, Respondent entered into a Consent Order with the Oregon Board of Pharmacy, finding that Respondent engaged in the distribution of drugs into Oregon without registering with the Oregon Board as a drug outlet in violation of Oregon law. The Oregon Board of Pharmacy assessed a civil penalty against Respondent through the Consent Order.

G. On or about December 2, 2014, the Ohio State Board of Pharmacy denied Concierge's application for a terminal distributor of dangerous drugs license finding that Concierge knowingly made false statements with the purpose to secure issuance of the license.

H. On or about December 2, 2015, the Alabama Board of Pharmacy denied Respondent's application for a manufacturer/wholesaler/distributor permit due to the actions of Melamed and Concierge identified in subparagraphs 6.B – 6.E of this Stipulation and Consent Order. Respondent has reapplied for a permit or licensure with the Alabama Board of Pharmacy, and the application is still pending.

I. On or about January 25, 2016, Respondent's application for an Out-of-State Wholesaler License was denied by the Nevada State Board of Pharmacy due to events and prior legal issues relating to Melamed and Concierge. Pursuant to Respondent's motion for

reconsideration, the Nevada State Board of Pharmacy granted Respondent's application on or about April 28, 2016, conditioned on an on-site inspection and that Respondent's ownership structure may not change from that presented to the Nevada State Board of Pharmacy without prior written approval.

J. On or about June 7, 2016, the State of Ohio Board of Pharmacy imposed a monetary penalty on Respondent due to the conduct of Melamed and Concierge identified in subparagraphs 6.B – 6.E and G of this Stipulation and Consent Order. The State of Ohio Board of Pharmacy issued a wholesaler license to Respondent on the condition that Respondent's corporate structure may not change without prior approval from the State of Ohio Board of Pharmacy.

K. As part of its Kansas Application, Respondent has made material representations to the Board that Melamed no longer has any ownership interest, directorship, employment, agency or capacity to control Respondent or any other entity related to Respondent, *to wit*:

i. Pursuant to a Shareholder's Agreement dated May 10, 2016, Melamed relinquished any and all control and decision-making power in Respondent to Hootan Troy Farahmand, resigned as an employee of Respondent, resigned as an officer of Respondent, resigned as a director of Respondent; and appointed Hootan Troy Farahmand as trustee and irrevocable proxy to vote Melamed's shareholder interest in Respondent.

ii. On or about December 29, 2017, by virtue of an Assignment of Shares, Melamed transferred all of his shares, rights, title and interest in Respondent to Hootan Troy Farahmand.

iii. On or about December 29, 2017, by virtue of a Membership Transfer Acknowledgement, Melamed transferred all of his membership interest, rights, title and interest in Alexso RE, LLC, a California limited liability company, which is affiliated with or otherwise related to Respondent, to S.A.A.A. Investments, LLC, a California limited liability company which is wholly owned by Hootan Troy Farahmand.

7. Upon motion duly made, seconded and passed, the Board finds and concludes that the events described in paragraphs 3 – 6 above, constitute actions which violates the Act and the Regulations of the Board and is therefore grounds for disciplinary action against the Respondent's Kansas Registration pursuant to K.S.A. 65-1627(f).

8. The Respondent agrees and consents and the Board finds, concludes and orders that the following disposition is just and appropriate under the circumstances:

A. PENDING APPLICATION. Respondent agrees, and the Board further orders, that Respondent's Kansas Application should be and is hereby **GRANTED**, subject to the following conditions:

i. Respondent's representations to the Board are true and accurate as recited in paragraph 6.K.i – iii, and that Hootan Melamed does not hold any ownership interest in Respondent, is not a director of Respondent, is not employed by Respondent, is not an agent of Respondent, and does not hold any of such capacities in any other entity related to, affiliated with, or controlled by Respondent;

ii. As an indefinite continuing condition of Respondent's Kansas Registration, Hootan Melamed shall not hold any ownership interest in Respondent, shall not be a director of Respondent, shall not be employed by Respondent, shall not be an agent of

Respondent, and shall not hold any of such capacities in any other entity related to, affiliated with, or controlled by Respondent;

iii. Prior to any change in the ownership, directors, officers or PIC of Respondent, Respondent shall first obtain the written consent of the Board to such change; and

iv. In the event that any of the above conditions are violated, such violation shall constitute a basis for the Board to immediately revoke Respondent's Kansas Registration.

B. OTHER REQUIREMENTS. Respondent acknowledges and agrees that as a condition of this Stipulation and Consent Order it must, and the Board further orders the Respondent to:

i. Comply fully with this Stipulation and Consent Order;

ii. Comply fully with the Kansas Pharmacy Act, the Board's rules and regulations and all state and federal laws relating to Kansas pharmacies;

9. Respondent agrees that all information in the possession of the Board's Investigation Member, its staff, its investigators and or its attorney regarding the investigation which lead to this disciplinary action and all information discovered during the pendency of the disciplinary action may be disclosed to and considered by the Board as part of the presentation and consideration of the proposal of settlement in the form of this Stipulation and Consent Order and the Final Order provided for herein, with or without the presence of the Respondent or its attorney. In the event that this Stipulation and Consent Order and the Final Order provided for herein are not accepted and approved by the Board, the Respondent further waives any objection to the Board members' consideration of this Stipulation and Consent Order or the information mentioned in the preceding sentence and further agrees to waive any claim of due

process violation or the right to seek the disqualification of any Board member as a result of the Board member's consideration of said document and information.

10. The stipulations contained herein shall not become binding until this Stipulation and Consent Order is approved by the Board and the Final Order provided for herein is entered by the Board. The Respondent acknowledges that the approval of the Board's Investigation Member or its attorney shall not constitute the approval of the Board or bind the Board to approve this Stipulation and Consent Order.

11. The Respondent agrees that this Stipulation and Consent Order is in conformance with Kansas and federal law and the Board has jurisdiction to enter into it and enter the Final Order provided for herein. The Respondent further agrees, for purposes of this matter, that the Kansas Pharmacy Act, K.S.A. 65-1626 *et seq.* is constitutional on its face and as applied in this case.

12. This Stipulation constitutes the entire agreement of the parties and may only be modified by a subsequent writing signed by them. The agreement shall be interpreted in accordance with the laws of the State of Kansas.

13. The Respondent acknowledges that it has the following rights:

- (a) To have formal notice of charges served upon it;
- (b) To file a response to the charges;
- (c) To have notice of and participate in a formal adjudicative hearing with the Board or its designee making specific findings of facts and conclusions of law based only upon evidence admitted at such hearing; and

(d) To take advantage of all applicable provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.* and the Kansas Judicial Review Act, K.S.A. 77-601 *et seq.*

The Respondent freely waives these rights and acknowledges that said waiver is made voluntarily and in consideration of the Board's limiting the disciplinary action taken against it to those provided for herein. The Respondent further waives the right to seek reconsideration or appeal or otherwise contest this Stipulation and Consent Order provided for herein.

14. The Respondent acknowledges that it enters into this Stipulation and Consent Order freely and voluntarily after consultation with counsel of its choosing. The Respondent further acknowledges that it has read this Stipulation and Consent Agency order in its entirety, that it understands its legal consequences and that it agrees that none of its terms are unconscionable, arbitrary or capricious.

15. Time is of the essence to this Stipulation and Consent Order. Respondent acknowledges and agrees that any violation of this Stipulation and Consent Order shall constitute a willful violation of a lawful Board order and grounds for further disciplinary action against it. The pendency of any disciplinary action arising out of an alleged violation of this Stipulation and Consent Order shall not affect the obligation of Respondent to comply with all terms and conditions of this Stipulation and Consent Order.

16. This Stipulation and Consent Order constitutes the entire and final agreement of the parties. In the event any provision of this Stipulation and Consent Order is deemed invalid or unenforceable by a court of competent jurisdiction, it shall be severed and the remaining provisions of this Stipulation and Consent Order shall be given full force and effect.

17. Upon approval and entry of the Final Order by the Board, this Stipulation and Consent Order shall be a public record in the custody of the Board.

18. This Stipulation and Consent Order shall become effective on the day it is approved, accepted and made an order of the Board by way of signature of the Board's authorized representative.

19. The Respondent acknowledges that it has been advised by the Board that it would have the right within 15 days after service of the Final Order provided for herein to file a petition for reconsideration with the Board and the right within 30 days after service of the Final Order provided for herein to file a petition for judicial review in the District Court of Shawnee County, Kansas in accordance with the Kansas Judicial Review Act, K.S.A. 77-601 *et seq.* and to serve such a petition for judicial review on the Kansas Board of Pharmacy by serving Alexandra Blasi, JD, MBA, its Executive Secretary at 800 SW Jackson St., Suite 1414, Topeka, KS 66612. The Respondent hereby waives those rights.

ENTERED AND EFFECTIVE this 10th day of Sept, 2019.


KANSAS BOARD OF PHARMACY

By:

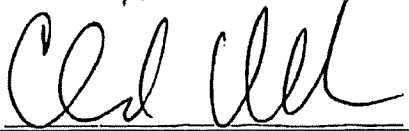

DR. JOHN WORDEN, President

AGREED AND APPROVED BY:

Alexso, Inc.
2317 Cotner Ave.
Los Angeles, CA 90064

By: 
H. Troy Furahman

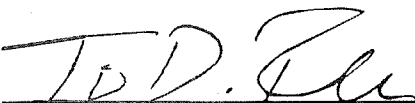
1/10/2019
Date


Chad Ullom, R.Ph.
Investigation Member

6/7/19
Date

Respondent's Attorney's Name & Address

Date

FOR  #25064
Randall J. Forbes, KS#09089 MO#64335
FRIEDEN & FORBES, LLP
1414 SW Ashworth Place, Suite 201
Topeka, KS 66604
(785) 354-1100

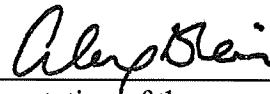
2/22/2019
Date

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing STIPULATION AND CONSENT ORDER was served by depositing same in the United States mail, postage prepaid, this 10th day of June, 2019 addressed to:

Randall J. Forbes
FRIEDEN & FORBES, LLP
1414 SW Ashworth Place, Suite 201
Topeka, KS 66604

Alexso, Inc.
2317 Cotner Ave.
Los Angeles, CA 90064



Representative of the
KANSAS BOARD OF PHARMACY