

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues
Against:

**DENNIS L. HUNT PHARMACY INC.,
DBA OMRO PHARMACY;
KENNETH BRESSERS,
PRES/VP/SEC/TREASURER**

Applicant for Nonresident Pharmacy Permit

Respondent.

Case No. 6476

OAH No. 2018101262

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL**

[Bus. & Prof. Code § 495]

The attached Stipulated Settlement and Disciplinary Order for Public Reproval is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on April 3, 2019.

It is so ORDERED on March 4, 2019.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Victor Law, R.Ph.
Board President

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Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
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7 *Attorneys for Complainant*

8
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BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

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14 **DENNIS L. HUNT PHARMACY INC.,**
15 **DBA OMRO PHARMACY;**
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[Bus. & Prof. Code § 495]

19
20
21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
22 entitled proceedings that the following matters are true:

23 **PARTIES**

24 1. Anne Sodergren (Complainant) is the Interim Executive Officer of the Board of
25 Pharmacy (Board). She brought this action solely in her official capacity and is represented in
26 this matter by Xavier Becerra, Attorney General of the State of California, by Seth A. Curtis,
27 Deputy Attorney General.

28 ///

1 2. Respondent Dennis L. Hunt Pharmacy Inc., dba OMRO Pharmacy; with Kenneth
2 Bressers, President/Vice President/Secretary/Treasurer (Respondent) is representing itself in this
3 proceeding and has chosen not to exercise its right to be represented by counsel.

4 **JURISDICTION**

5 3. On or about January 12, 2018, the Board received an application for a Non-Resident
6 Pharmacy Permit from Respondent. The Board denied the application on March 26, 2018.
7 Respondent timely requested a hearing with respect to the denial.

8 4. Statement of Issues No. 6476 was filed before the Board and is currently pending
9 against Respondent. The Statement of Issues and all other statutorily required documents were
10 properly served on Respondent on October 19, 2018. A copy of Statement of Issues No. 6476 is
11 attached as exhibit A and incorporated herein by reference.

12 **ADVISEMENT AND WAIVERS**

13 5. Respondent has carefully read, and understands the charges and allegations in
14 Statement of Issues No. 6476. Respondent has also carefully read, and understands the effects of
15 this Stipulated Settlement and Disciplinary Order for Public Reapproval.

16 6. Respondent is fully aware of its legal rights in this matter, including the right to a
17 hearing on the charges and allegations in the Statement of Issues; the right to be represented by
18 counsel at its own expense; the right to confront and cross-examine the witnesses against them;
19 the right to present evidence and to testify on its own behalf; the right to the issuance of
20 subpoenas to compel the attendance of witnesses and the production of documents; the right to
21 reconsideration and court review of an adverse decision; and all other rights accorded by the
22 California Administrative Procedure Act and other applicable laws.

23 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
24 every right set forth above.

25 **CULPABILITY**

26 8. Respondent admits the truth of each and every charge and allegation in Statement of
27 Issues No. 6476.

28 ///

1 9. Respondent agrees that its application for a Non-Resident Pharmacy Permit is subject
2 to denial, and agrees to be bound by the Disciplinary Order below.

3 **CONTINGENCY**

4 10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
5 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
6 communicate directly with the Board regarding this stipulation and settlement, without notice to
7 or participation by Respondent. By signing the stipulation, Respondent understands and agrees
8 that it may not withdraw its agreement or seek to rescind the stipulation prior to the time the
9 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
10 Order, the stipulation shall be of no force or effect, except for this paragraph, it shall be
11 inadmissible in any legal action between the parties, and the Board shall not be disqualified from
12 further action by having considered this matter.

13 11. The parties understand and agree that Portable Document Format (PDF) and facsimile
14 copies of this stipulation, including Portable Document Format (PDF) and facsimile signatures
15 thereto, shall have the same force and effect as the originals.

16 12. This stipulation is intended by the parties to be an integrated writing representing the
17 complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or
18 contemporaneous agreements, understandings, discussions, negotiations, and commitments
19 (written or oral). This stipulation may not be altered, amended, modified, supplemented, or
20 otherwise changed except by a writing executed by an authorized representative of each of the
21 parties.

22 13. In consideration of the foregoing admissions and stipulations, the parties agree that
23 the Board may, without further notice or formal proceeding, issue and enter the following
24 Disciplinary Order:

25 **DISCIPLINARY ORDER**

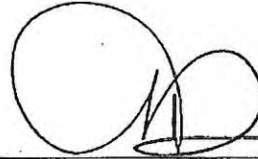
26 IT IS HEREBY ORDERED that the application for a Nonresident Pharmacy Permit by
27 Respondent Dennis L. Hunt Pharmacy Inc., dba OMRO Pharmacy; Kenneth Bressers,
28 President/Vice President/Secretary/Treasurer, is hereby granted. Upon successful completion of

1 the licensing requirements, a Nonresident Pharmacy Permit shall be issued to Respondent. Said
2 permit shall be publicly reprovved by the Board of Pharmacy under Business and Professions Code
3 section 495 in resolution of Statement of Issues No. 6476, attached as exhibit A.

4 **ACCEPTANCE**

5 I have carefully read the Stipulated Settlement and Disciplinary Order for Public Repraval.
6 I understand the stipulation and the effect it will have on my Non-Resident Pharmacy Permit. I
7 enter into this Stipulated Settlement and Disciplinary Order for Public Repraval voluntarily,
8 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of
9 Pharmacy.

10
11 DATED: 01.31.2019



DENNIS L. HUNT PHARMACY INC., DBA OMRO
PHARMACY; KENNETH BRESSERS,
PRESIDENT/VICE PRESIDENT/SECRETARY/
TREASURER
Respondent

15 **ENDORSEMENT**

16 The foregoing Stipulated Settlement and Disciplinary Order for Public Repraval is hereby
17 respectfully submitted for consideration by the Board of Pharmacy of the Department of
18 Consumer Affairs.

19 Dated: 1/31/19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
KENT D. HARRIS
Supervising Deputy Attorney General



SETH A. CURTIS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 6476

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2 KENT D. HARRIS
Supervising Deputy Attorney General
3 SETH A. CURTIS
Deputy Attorney General
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9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:

Case No. 6476

13 **DENNIS L. HUNT PHARMACY INC., DBA**
14 **OMRO PHARMACY;**
15 **KENNETH BRESSERS, PRES/VP/ SEC/**
16 **TREAS/PHARMACIST-IN-CHARGE**

STATEMENT OF ISSUES

17 **Applicant for Nonresident Pharmacy Permit**

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

21 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
22 capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer
23 Affairs.

24 2. On or about January 18, 2018, the Board received an application for a Non-Resident
25 Pharmacy Permit from Dennis L. Hunt Pharmacy Inc., dba OMRO Pharmacy; with Kenneth
26 Bressers, President/Vice President/Secretary/Treasurer/Pharmacist-in-Charge (Respondent). On
27 or about January 12, 2018, Kenneth Bressers certified under penalty of perjury to the truthfulness
28 of all statements, answers, and representations in the application. The Board denied the
application on March 26, 2018.

1 **JURISDICTION**

2 3. This Statement of Issues is brought before the Board under the authority of the
3 following laws. All section references are to the Business and Professions Code unless otherwise
4 indicated.

5 4. Code section 118 states, in pertinent part:

6 (a) The withdrawal of an application for a license after it has been filed with a board in the
7 department shall not, unless the board has consented in writing to such withdrawal, deprive the
8 board of its authority to institute or continue a proceeding against the applicant for the denial of
9 the license upon any ground provided by law or to enter an order denying the license upon any
10 such ground.

11 **STATUTORY PROVISIONS**

12 5. Code section 480 states, in pertinent part:

13 (a) A board may deny a license regulated by this code on the grounds that
14 the applicant has one of the following:

15 (1) Been convicted of a crime. A conviction within the meaning of this
16 section means a plea or verdict of guilty or a conviction following a plea of nolo
17 contendere. Any action that a board is permitted to take following the establishment
18 of a conviction may be taken when the time for appeal has elapsed, or the judgment
of conviction has been affirmed on appeal, or when an order granting probation is
made suspending the imposition of sentence, irrespective of a subsequent order under
the provisions of Section 1203.4 of the Penal Code.

19 (2) Done any act involving dishonesty, fraud, or deceit with the intent to
substantially benefit himself or herself or another, or substantially injure another.

20 (3)(A) Done any act that if done by a licentiate of the business or
21 profession in question, would be grounds for suspension or revocation of license.

22 6. Code section 493 states, in pertinent part:

23 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
24 the department pursuant to law to deny an application for a license or to suspend or revoke a
25 license or otherwise take disciplinary action against a person who holds a license, upon the
26 ground that the applicant or the licensee has been convicted of a crime substantially related to the
27 qualifications, functions, and duties of the licensee in question, the record of conviction of the
28 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,

1 and the board may inquire into the circumstances surrounding the commission of the crime in
2 order to fix the degree of discipline or to determine if the conviction is substantially related to the
3 qualifications, functions, and duties of the licensee in question.

4 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
5 'registration.'"

6 7. Section 4300 of the Code states:

7 ...

8 (c) The board may refuse a license to any applicant guilty of unprofessional conduct.

9 8. Code section 4301 states, in pertinent part:

10 The board shall take action against any holder of a license who is guilty of
11 unprofessional conduct or whose license has been issued by mistake. Unprofessional
conduct shall include, but is not limited to, any of the following:

12 ...

13 (b) Incompetence.

14 (c) Gross negligence.

15 ...

16 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
17 deceit, or corruption, whether the act is committed in the course of relations as a licensee or
otherwise, and whether the act is a felony or misdemeanor or not.

18 ...

19 (i) The conviction of a crime substantially related to the qualifications,
20 functions, and duties of a licensee under this chapter. The record of conviction of a
21 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States
22 Code regulating controlled substances or of a violation of the statutes of this state
23 regulating controlled substances or dangerous drugs shall be conclusive evidence of
24 unprofessional conduct. In all other cases, the record of conviction shall be conclusive
25 evidence only of the fact that the conviction occurred. The board may inquire into the
26 circumstances surrounding the commission of the crime, in order to fix the degree of
27 discipline or, in the case of a conviction not involving controlled substances or dangerous
28 drugs, to determine if the conviction is of an offense substantially related to the
qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of
guilty or a conviction following a plea of nolo contendere is deemed to be a conviction
within the meaning of this provision. The board may take action when the time for appeal
has elapsed, or the judgment of conviction has been affirmed on appeal or when an order
granting probation is made suspending the imposition of sentence, irrespective of a
subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw
his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of
guilty, or dismissing the accusation, information, or indictment.

1
2 (n) The revocation, suspension, or other discipline by another state of a license
3 to practice pharmacy, operate a pharmacy, or do any other act for which a license is
4 required by this chapter that would be grounds for revocation, suspension, or other
5 discipline under this chapter. Any disciplinary action taken by the board pursuant to this
6 section shall be coterminous with action taken by another state, except that the term of any
7 discipline taken by the board may exceed that of another state, consistent with the board's
8 enforcement guidelines. The evidence of discipline by another state is conclusive proof of
9 unprofessional conduct.

10 REGULATORY PROVISIONS

11 9. Title 16, California Code of Regulations, (CCR), section 1770, states:

12 For the purpose of denial, suspension, or revocation of a personal or facility license
13 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
14 crime or act shall be considered substantially related to the qualifications, functions or duties of a
15 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
16 licensee or registrant to perform the functions authorized by his license or registration in a manner
17 consistent with the public health, safety, or welfare.

18 FIRST CAUSE FOR DENIAL OF APPLICATION

19 (Criminal Convictions)

20 10. Respondent's application is subject to denial pursuant to Code section 480(a)(1),
21 4300(c), and 4301(I), in that Respondent suffered the following criminal convictions:

22 a. On or about February 11, 1991, in a criminal proceeding entitled *State of*
23 *Wisconsin v. Kenneth Bressers* in the Criminal Division of the Circuit Court for Milwaukee
24 County, State of Wisconsin, Case Number F-89-0665, Respondent was convicted by plea of nolo
25 contendere to two counts of Conspiracy to Commit Burglary, in violation of Wisconsin Statutes
26 939.31 and 943.10; Attempted Receiving Stolen Property, in violation of Wisconsin Statutes
27 939.32 and 943.34(2); and Attempted Receiving Stolen Property, in violation of Wisconsin
28 Statutes 939.32 and 943.34(3) all felonies. The circumstances are that between June and
September of 1988, R.A. and/or T.C. committed residential burglaries at the direction of
Respondent to obtain jewelry and other items, and that the stolen items were then provided to
Respondent who paid cash for the stolen goods. As a result, Respondent was sentenced to five
years in prison and eight years of probation. Respondent's sentence was stayed, and Respondent

1 was sentenced to one-year incarceration and granted work release for the remainder of his
2 sentence under electronic monitoring, along with an additional 300 hours of community service.

3 b. On or about March 1, 1994, in a criminal proceeding entitled *State of Wisconsin*
4 *v. Kenneth A. Bressers*, in the Circuit Court for Milwaukee County, State of Wisconsin, Case No.
5 94CF000269, Respondent was convicted on his plea of guilty to commercial gambling, in
6 violation of Wisconsin Statute 946.03(3), a felony. As a result, Respondent was sentenced to 18
7 months in prison.

8 SECOND CAUSE FOR DENIAL OF APPLICATION

9 (Discipline by the Board of Another State)

10 11. Respondent's application is subject to denial pursuant to Code section 4301,
11 subdivision (n), by and through Code section 4300, subdivision (c), for revocation, suspension, or
12 other discipline by another state of a license to practice pharmacy, operate a pharmacy, or do any
13 other act for which a license is required by Code sections 4000, et seq., as follows:

14 a. On or about October 10, 1995, The Wisconsin Board of Pharmacy, in Case No.
15 94 PHM 075, imposed discipline on Kenneth A. Bressers, when it Reprimanded Respondent for
16 unprofessional conduct and limited his pharmacist license for a period of five years. The
17 circumstances are that on or about February 11, 1991, Respondent was convicted on two counts
18 of conspiracy to commit burglary, two counts of attempted receiving of stolen property for which
19 he was sentenced to eight years in prison as more thoroughly set forth in paragraph 10,
20 subdivision (a) above. On or about March 1, 1994, Respondent was convicted of commercial
21 gambling and was sentenced to 18 months in prison, as more thoroughly set forth in paragraph
22 10, subdivision (b) above.

23 b. On or about September 10, 2008, the Wisconsin Board of Pharmacy, in Case
24 No. LS0809103PHM, imposed discipline on Kenneth A. Bressers, when it Reprimanded
25 Respondent and ordered costs in the amount of \$2,276.82. The circumstances are that on or about
26 April of 2004, Respondent filled prescriptions for patient S.H. by relying on the label information
27 contained on the prescription container supplied by another pharmacy and not on the original
28 prescription information.

1 **THIRD CAUSE FOR DENIAL OF APPLICATION**

2 (Acts Committed by Licentiate)

3 12. Respondent's application is subject to denial pursuant to Code section 480,
4 subdivision (a)(3)(A), in that Respondent committed acts which if done by a licentiate of the
5 profession would constitute grounds for discipline for unprofessional conduct under Code
6 sections 4301, subdivision (c) gross negligence, subdivision (f) commission of any act involving
7 moral turpitude, dishonesty, fraud, deceit, or corruption, and subdivision (l) (conviction of a
8 crime), as more particularly set forth above in paragraph 11 and all subdivisions above.

9 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

10 (Moral Turpitude, Dishonesty, Fraud, or Deceit)

11 13. Respondent's application is subject to denial under Code sections 480(a)(2),
12 480(a)(3)(A), 4300(c), 4301(f), and CCR section 1770, in that Respondent committed acts
13 involving moral turpitude, dishonesty, fraud, or deceit with the intent to substantially benefit
14 himself or another, as set forth in paragraph 11 and all subdivisions above. Respondent's conduct
15 is substantially related to the qualifications, functions, and duties of a pharmacist-in-charge and
16 nonresident pharmacy.

17 **PRAYER**

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
19 and that following the hearing, the Board of Pharmacy issue a decision:

20 1. Denying the application of Dennis L. Hunt Pharmacy Inc., dba OMRO Pharmacy;
21 Kenneth Bressers, President/Vice President/Secretary/Treasurer/Pharmacist-in-Charge for a
22 Nonresident Pharmacy Permit;

23 2. Taking such other and further action as deemed necessary and proper.

24 DATED: 10/8/18

25 
26 VIRGINIA HEROLD
27 Executive Officer
28 Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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