

BEFORE THE
CALIFORNIA STATE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

In the Matter of the Petition for Early
Termination of Probation of:

FARAMARZ GANJIAN, aka
FRED GANJIAN

Pharmacist License No. RPH 56740

Petitioner.

Case No. SI - 2227

OAH No. N2007040272

DECISION

This matter was heard before the California State Board of Pharmacy on April 19, 2007, in Sacramento, California. Board members present and participating in the hearing were: William Powers, President; Dr. Kenneth H. Schell, Vice President; Dr. Ruth M. Conroy; D. Timothy Dazé; Stanley W. Goldenberg; Robert Graul; Dr. Clarence K. Hiura; Henry A. Hough; Dr. Susan L. Ravnan; and Dr. Robert E. Swart. Robert Walker, Administrative Law Judge, State of California, Office of Administrative Hearings, presided.

Joshua A. Room, Deputy Attorney General, appeared pursuant to Government Code section 11522.

The petitioner, Faramarz Ganjian, aka Fred Ganjian, appeared in propria persona.

The matter was submitted on April 19, 2007.

ISSUE

Petitioner holds a probationary license. Should he be granted early termination of probation so that he will have a fully restored license?

FACTUAL FINDINGS

BACKGROUND

1. On September 14, 1998, petitioner filed an application for a pharmacist license with the California State Board of Pharmacy. At the time petitioner applied for licensure in California, he held pharmacist licenses in New York and Connecticut. The licensing agencies in New York and Connecticut, however, had placed those licenses on probation.

2. The circumstances that gave rise to the disciplinary actions in New York and Connecticut occurred in 1992 and concerned petitioner's having offered drugs for sale that were misbranded or repackaged and his having purchased drugs outside of proper channels of distribution.

3. These circumstances also led to petitioner's being convicted of a crime. In 1993, in the United States District Court for the Southern District of New York, petitioner was convicted of violating title 18 of the United States Code, section 371, conspiracy to commit wire fraud and receive and distribute adulterated or misbranded prescription drugs. This was based on petitioner's having participated in a drug diversion scheme to purchase or resell dangerous drugs from an illegal or improper source. The conviction was on a plea of guilty. Petitioner served four months in prison and four months under house arrest. He also paid a fine of \$2,500 and was required to give up his interest in a retail pharmacy.

4. In response to petitioner's 1998 application for licensure in California, Patricia F. Harris, Executive Officer, California State Board of Pharmacy, filed a statement of issues in which she sought a denial of petitioner's application. The statement of issues was dated October 13, 1999. Ms. Harris alleged the disciplinary actions that the licensing agencies had taken in New York and Connecticut. She alleged the criminal conviction. Also, she alleged that the underlying conduct involved dishonesty, fraud, or deceit.

5. Petitioner and the board entered into a stipulation pursuant to which petitioner admitted the allegations in the statement of issues and the board agreed to issue a probationary license if petitioner successfully completed the licensure examination and satisfied all other requirements for licensure. The stipulation provided for a probationary period of three years. The stipulation became effective on March 28, 2000.

6. Petitioner subsequently completed the licensure examination and satisfied all other requirements for licensure. On January 21, 2005, the board issued license number RPH 56740. The board immediately revoked the license and placed it on probation for three years. The probation is scheduled to terminate on January 20, 2008.

7. By a petition dated October 20, 2006, petitioner petitioned for a reduction of penalty. Petitioner withdrew that petition.

8. By a petition filed on March 27, 2007, petitioner petitioned for early termination of probation. That petition is the subject of this proceeding.

PROFESSIONAL DEVELOPMENT

9. In 2006, petitioner completed 31 hours of board-approved continuing education courses.

REHABILITATION

10. The probationary term to which Petitioner's New York license was subject ended in 2003. The probationary term to which his Connecticut license was subject also ended in 2003. Both of those licenses are now clear.

11. Petitioner is remorseful. He declares that drug diversion is very dangerous and that he is fully committed to proper numbering, storage, and record keeping in order to avoid subjecting people's lives to unnecessary risks. He declares that he would never again purchase drugs from an illicit source.

12. Petitioner is in compliance with all of the conditions of his California license probation.

LETTERS OF RECOMMENDATION

13. Kenneth Rothstein, Pharm.D., is licensed as a pharmacist in California. Dr. Rothstein wrote a letter dated October 27, 2006. Beginning in approximately October of 2005, Dr. Rothstein supervised petitioner for some unspecified period. Petitioner told Dr. Rothstein about the license discipline to which he had been subjected. Dr. Rothstein found petitioner to be extremely competent and professional. Dr. Rothstein is of the opinion that petitioner's rehabilitation is "complete and sincere." Dr. Rothstein has "heard nothing but praise from every one who works with Fred" Dr. Rothstein wrote that petitioner would be extremely capable of supervising intern pharmacists and of being a pharmacist in charge.

14. Fred T. Leivo, Pharm.D., RPh., is licensed as a pharmacist in California. Dr. Leivo wrote a letter dated October 29, 2006. There is no indication that Dr. Leivo knows about petitioner's history of license discipline. From February through October of 2006, Dr. Leivo supervised petitioner at Ralph's Pharmacy in Santa Barbara, California. Dr. Leivo is extremely favorably impressed with petitioner's professionalism and dedication to patient care. Dr. Leivo wrote that petitioner is industrious and "always has the patient's best interests in mind."

15. Robert Mernick, President, Romax Drugs Inc., and President, Bryant Ranch PrePack, wrote a letter dated October 9, 2006. Mr. Mernick, who knows about petitioner's "record in New York," began employing petitioner in April of 2004. As of October of 2006, Mr. Mernick employed petitioner as director of marketing. Mr. Mernick wrote that petitioner

is dedicated to his job and “to the pharmacy industry’s professional ethics.”

16. Lawrence C. Hertz, who lives in New York, wrote a letter dated October 24, 2006. Mr. Hertz has known petitioner for almost 15 years and continues to talk with him on the telephone once or twice a month. It is Mr. Hertz’s opinion that petitioner will not engage in any misconduct in the future.

LEGAL CONCLUSIONS

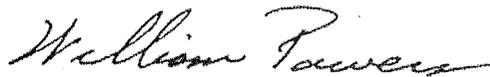
By reason of the matters set forth in Findings 10 through 16, it is determined that petitioner’s application for early termination of probation should be granted. Petitioner has been fully rehabilitated. No purpose would be served by requiring him to remain on probation until January of 2008.

ORDER

The petition for early termination of probation is granted. If petitioner satisfies all statutory and regulatory requirements for issuance of a license, his license will be fully restored.

DATED: May 31, 2007

Effective Date: June 1, 2007



WILLIAM POWERS

President

California State Board of Pharmacy

1 BILL LOCKYER, Attorney General
of the State of California
2 MAUREEN MCKENNAN STRUMPFER, State Bar No. 161571
Deputy Attorney General
3 1300 "I" Street, Suite 125
P.O. Box 944255
4 Sacramento, California 94244-2550
Telephone: (916) 445-2069

5 Attorneys for Complainant
6

7 BEFORE THE
CALIFORNIA STATE BOARD OF PHARMACY
8 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

9 In the Matter of the Statement of) NO. SI-2227
10 Issues Against:)
11 FARAMARZ GANJIAN, aka) STIPULATION, DECISION AND
FRED GANJIAN) ORDER
12 66 George Street)
13 East Hills, New York 11577)
Applicant/Respondent.)
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16 Applicant/Respondent FARAMARZ GANJIAN, also known as,
17 FRED GANJIAN (hereinafter "respondent"), and Complainant, Patricia
18 F. Harris, Executive Officer of the California State Board of
19 Pharmacy, Department of Consumer Affairs, State of California
20 (hereinafter "Board"), through her counsel, Deputy Attorney General
21 Maureen McKennan Strumpfer, hereby stipulate that the following
22 matters are true.

23 1. Respondent has been duly served with the Statement of
24 Issues on file and pending in this case, and accompanying
25 documents. A copy of the Statement of Issues is attached hereto as
26 an Exhibit and is incorporated by reference as though fully set
27 forth herein. Respondent is subject to the jurisdiction of the
28 Board in regard to matters alleged in the Statement of Issues.

1 pharmacy license] as set forth below:

2 Respondent, who was a licensed pharmacist, participated
3 in a prescription drug diversion scheme by purchasing prescription
4 drugs from an illegal or improper source, and then resold/dispensed
5 the drugs to unsuspecting consumers. As a result of respondent's
6 misconduct, he plead guilty on March 8, 1993, and was criminally
7 convicted in the United States District Court, Southern District of
8 New York, Case No. 92 Cr. 943, *United States of America v. Faramarz*
9 *Ganjian*, to a violation of Title 18 USC § 371 [conspiracy to commit
10 wire fraud and receive and distribute adulterated and misbranded
11 prescription drugs].

12 Respondent admits that he committed acts of
13 unprofessional conduct and gross negligence by holding for sale and
14 offering for sale misbranded drugs and repacked drugs and
15 purchasing drugs outside the proper channels of distribution of
16 prescription-required drugs. As a result of his misconduct,
17 respondent's pharmacist license has been disciplined in the State
18 of New York and in the State of Connecticut.^{1/}

19 5. The foregoing admissions are made only for the
20 purpose of this proceeding and any subsequent proceedings between
21 respondent and the Board, the State of California and any of its
22 agencies, and any other government agency responsible for licensing
23 pharmacists. In the event this Stipulation is not adopted by the
24

25 1. On or about December 18, 1992, respondent surrendered his
26 pharmacist license in New York. On or about July 20, 1998,
27 respondent's New York pharmacist license was reinstated and he was
28 placed on five (5) years probation with terms and conditions. On
or about March 7, 1994, respondent surrendered his pharmacist
license in Connecticut. On or about November 3, 1998, respondent's
Connecticut pharmacist license was reinstated and he was placed on
five (5) years probation with terms and conditions.

1 Board, the admissions made herein shall be null and void, and may
2 not be used by the parties for any purpose.

3 6. It is understood that, in deciding whether to adopt
4 this stipulation, the Board may receive oral and written
5 communications from, and make inquiries of, complainant, her
6 attorneys, the Board's attorneys, consulting experts, and the
7 Board's enforcement committee. Communications pursuant to this
8 paragraph shall not disqualify the Board or other persons from
9 future participation in this or any other matter affecting
10 respondent.

11 WHEREFORE, it is stipulated that the California Board of
12 Pharmacy may issue the following Decision and Order:

13 DECISION AND ORDER

14 The application for pharmacist licensure examination by
15 Faramarz Ganjian, also known as Fred Ganjian, is hereby granted.
16 Upon successful completion of the California pharmacist licensure
17 examination and all other licensing requirements, a license shall
18 be issued to respondent. Said license shall immediately be
19 revoked, the order of revocation stayed and respondent placed on
20 probation for a period of three (3) years on the following terms
21 and conditions:

22 1. OBEY ALL LAWS: Respondent shall obey all federal
23 and state laws and regulations substantially related or governing
24 the practice of pharmacy.

25 2. REPORTING TO THE BOARD: Respondent shall report to
26 the Board or its designee quarterly. The report shall be made
27 either in person or in writing, as directed. If the final
28 probation report is not made as directed, probation shall be

1 extended automatically until such time as the final report is made.

2 3. INTERVIEW WITH THE BOARD: Upon receipt of
3 reasonable notice, respondent shall appear in person for interviews
4 with the Board or its designee upon request at various intervals at
5 a location to be determined by the Board or its designee. Failure
6 to appear for a scheduled interview without prior notification to
7 Board staff shall be considered a violation of probation.

8 4. COOPERATION WITH BOARD STAFF: Respondent shall
9 cooperate with the Board's inspectional program and in the Board's
10 monitoring and investigation of the respondent's compliance with
11 the terms and conditions of his probation. Failure to cooperate
12 shall be considered a violation of probation.

13 5. PEER REVIEW: Respondent shall submit to peer review
14 as deemed necessary by the Board.

15 6. CONTINUING EDUCATION: Respondent shall provide
16 evidence of efforts to maintain skill and knowledge as a pharmacist
17 as directed by the Board.

18 7. NOTICE TO EMPLOYERS: Respondent shall notify all
19 present and prospective employers of the decision in Case No. SI-
20 2227 and the terms, conditions and restrictions imposed on
21 respondent by the decision. Within thirty (30) days of the
22 effective date of this decision, and within fifteen (15) days of
23 respondent undertaking new employment, respondent shall cause his
24 employer to report to the Board in writing acknowledging the
25 employer read the decision in Case No. SI-2227.

26 If respondent works for or is employed by or through a
27 pharmacy employment service, respondent must notify the pharmacist-
28 in-charge and/or owner at every pharmacy at which he is employed or

1 used of the fact and terms of the decision in Case No. SI-2227 in
2 advance of the respondent commending work at the pharmacy.

3 "Employment" within the meaning of this provision shall
4 include any full-time, part-time, temporary or relief service or
5 pharmacy management service as a pharmacist, whether the respondent
6 is considered an employee or independent contractor.

7 8. NO PRECEPTORSHIPS, SUPERVISION OF INTERNS, BEING
8 PHARMACIST-IN-CHARGE:

9 Respondent shall not supervise any intern pharmacist or
10 perform any of the duties of a preceptor, nor shall respondent be
11 the pharmacist-in-charge of any pharmacy licensed by the Board.

12 9. PROBATION MONITORING COSTS: Respondent shall pay
13 the costs associated with probation monitoring as determined by the
14 Board each and every year of probation. Such costs shall be
15 payable to the Board at the end of each year of probation. Failure
16 to pay such costs shall be considered a violation of probation.

17 10. STATUS OF LICENSE: Respondent shall, at all times
18 while on probation, maintain an active current license with the
19 Board, including any period during which probation is tolled.

20 If respondent's license expires by operation of law or
21 otherwise, upon renewal or reapplication, respondent's license
22 shall be subject to all terms of this probation not previously
23 satisfied.

24 11. NOTIFICATION OF EMPLOYMENT/MAILING ADDRESS CHANGE:

25 Within ten (10) days of a change in employment--either
26 leaving or commencing employment--respondent shall so notify the
27 Board in writing, including the address of the new employer; within
28 ten (10) days of a change of mailing address, respondent shall

1 notify the Board in writing. If respondent works for or is
2 employed through a pharmacy employment service, respondent shall as
3 requested, provide to the Board or its designee a work schedule
4 indicating dates and location of employment.

5 12. TOLLING OF PROBATION: If respondent leaves
6 California to reside or practice outside this state, respondent
7 must notify the board in writing of the dates of departure and
8 return within ten (10) days of departure or return. Periods of
9 residency, except such periods where the respondent is actively
10 practicing pharmacy within California, or practice outside
11 California shall not apply to reduction of the probationary period.

12 Should respondent, regardless of residency, for any
13 reason cease practicing pharmacy in California, respondent must
14 notify the Board in writing within ten (10) days of cessation of
15 the practice of pharmacy or resuming the practice of pharmacy.
16 "Cessation of practice" means any period of time exceeding thirty
17 (30) days in which respondent is not engaged in the practice of
18 pharmacy as defined in section 4052 of the Business and Professions
19 Code.

20 It is a violation of probation for respondent's probation
21 to remain tolled pursuant to the provisions of this condition for
22 a period exceeding a consecutive period of three (3) years.

23 13. VIOLATION OF PROBATION: If respondent violates
24 probation in any respect, the Board, after giving respondent notice
25 and an opportunity to be heard, may revoke probation and carry out
26 the disciplinary order (revocation) which was stayed. If a
27 petition to revoke probation or an accusation is filed against
28 respondent during probation, the Board shall have continuing

1 jurisdiction, and the period of probation shall be extended, until
2 the petition to revoke probation is heard and decided.

3 If respondent has not complied with any term or condition
4 of probation, the Board shall have continuing jurisdiction over
5 respondent, and probation shall automatically be extended until all
6 terms and conditions have been met or the Board has taken other
7 action as deemed appropriate to treat the failure to comply as a
8 violation of probation, to terminate probation, and to impose the
9 penalty (revocation) which was stayed.

10 14. COMPLETION OF PROBATION: Upon successful completion
11 of probation, respondent's license will be fully restored.

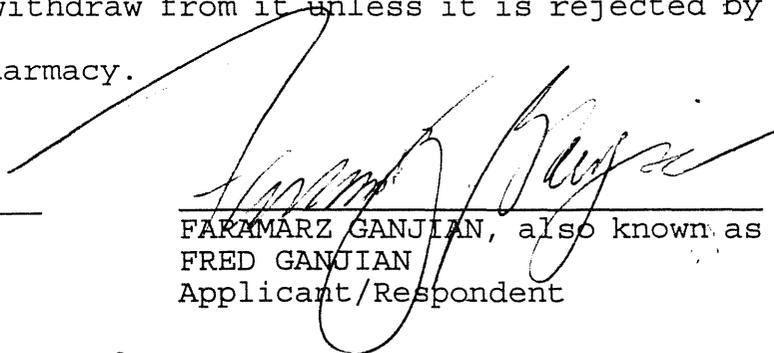
12 AGREEMENT BY RESPONDENT

13 I hereby state that I have read and that I understand
14 this document. I understand that I have certain rights under the
15 California Administrative Procedure Act and the laws and
16 regulations of the State of California in regard to this matter,
17 and I knowingly and intelligently waive those rights.

18 I understand that I have the right to seek legal counsel
19 to advise me in this matter, including the legal effect of this
20 document.

21 I further understand that this stipulation may not be
22 adopted by the California Board of Pharmacy, in which case it is of
23 no effect. I also understand that once I sign this stipulation, I
24 shall not be permitted to withdraw from it unless it is rejected by
25 the California Board of Pharmacy.

26
27 DATED: 11/21/99


FARAMARZ GANJIAN, also known as
FRED GANJIAN
Applicant/Respondent

ENDORSEMENT

The foregoing Stipulation is respectfully submitted for consideration by the California Board of Pharmacy.

DATED: November 29, 1999



MAUREEN MCKENNAN STRUMPFER
Deputy Attorney General

Attorneys for Complainant

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ORDER

The above Stipulation has been adopted and shall become the Decision of the Board of Pharmacy of the State of California effective March 28, 2000.

IT IS SO ORDERED this 29th day of February, 2000.

BOARD OF PHARMACY
Department of Consumer Affairs
State of California

By *R. B. Mazzoni*
RICHARD B. MAZZONI
Board President

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Exhibit

1 BILL LOCKYER, Attorney General
of the State of California
2 MAUREEN MCKENNAN STRUMPFER, State Bar No. 161571
Deputy Attorney General
3 1300 "I" Street, Suite 125
P.O. Box 944255
4 Sacramento, California 94244-2550
Telephone: (916) 445-2069

5 Attorneys for Complainant
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BEFORE THE
CALIFORNIA STATE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of) NO. SI-2227
10 Issues Against:)
) STATEMENT OF ISSUES
11 FARAMARZ GANJIAN, aka)
12 FRED GANJIAN)
66 George Street)
13 East Hills, New York 11577)
)
14 Applicant/Respondent.)

15
16 Complainant Patricia F. Harris (hereinafter
17 "Complainant") alleges as causes for discipline the following:

18 1. Complainant is the Executive Officer of the
19 California State Board of Pharmacy, Department of Consumer Affairs,
20 State of California (hereinafter the "Board"). Complainant makes
21 and files this Statement of Issues in her official capacity as
22 Executive Officer with the Board, and in no other capacity.

23 RELEVANT STATUTES AND REGULATIONS

24 2. Under Business and Professions Code Section 4300,
25 subdivision (c), the Board may refuse a license to any applicant
26 guilty of unprofessional conduct.^{1/}
27

28 1. Unless otherwise specified, all further references are to
the Business and Professions Code.

1 against his pharmacist license in another state(s). The
2 application was certified as to its truth and accuracy under
3 penalty of perjury by applicant/respondent on September 8, 1998.

4 BASIS FOR DENIAL OF LICENSURE

5 8. Respondent's application for licensure is subject to
6 denial under Business and Professions Code section 4301(n) based on
7 disciplinary action taken against his pharmacist license in other
8 states as follows:

9 a. On or about December 18, 1992, in the New York State
10 Education Department, Office of Professional Discipline, State
11 Board of Pharmacy, *In the Matter of the Disciplinary Proceeding*
12 *Against FARAMARZ GANJIAN (Pharmacist)*, Case No. 13494, respondent
13 surrendered his license to practice pharmacy in the State of New
14 York and paid a fine of \$2,500.00. Respondent agreed to surrender
15 his license and admitted that he committed acts of unprofessional
16 conduct and gross negligence by holding for sale and offering for
17 sale misbranded drugs and repacked drugs and purchasing drugs
18 outside the proper channels of distribution of prescription-
19 required drugs.

20 On or about July 20, 1998, in Case No. 98-15-20,
21 respondent's license to practice pharmacy in the State of New York
22 was reinstated and he was placed on five (5) years probation with
23 terms and conditions.

24 b. On or about March 7, 1994, in the State of
25 Connecticut, Commission of Pharmacy, *In the Matter of Faramarz*
26 *Ganjian*, Pharmacy File No. 93-6, Docket No. 94-16, respondent
27 surrendered his Connecticut pharmacist license based on the
28 disciplinary action and surrender of his pharmacist license in the

1 State of New York as set forth above.

2 On or about November 3, 1998, in Pharmacy File No. 98-48,
3 Docket No. 98-600, his license to practice pharmacy in the State of
4 Connecticut was reinstated and he was placed on five (5) years
5 probation with terms and conditions.

6 9. Respondent's application for licensure is subject to
7 denial under Business and Professions Code sections 4301(1) and
8 480(a)(1) based on his conviction of a crime substantially related
9 to the practice of pharmacy as follows:

10 a. On or about March 8, 1993, in the United States
11 District Court, Southern District of New York, Case No. 92 Cr. 943,
12 *United States of America v. Faramarz Ganjian*, respondent plead
13 guilty to a violation of Title 18 U.S.C. § 371 [conspiracy to
14 commit wire fraud and receive and distribute adulterated and
15 misbranded prescription drugs]. The circumstances of the crime
16 were that respondent, who was a licensed pharmacist, participated
17 in a prescription drug diversion scheme by purchasing non-
18 controlled prescription drugs from an illegal or improper source,
19 and then resold/dispensed the drugs to unsuspecting consumers.

20 10. Respondent's application for licensure is subject to
21 denial under Business and Professions Code sections 480(a)(2) and
22 480(a)(3) in that his actions as set forth in paragraph 9 above,
23 involved dishonesty, fraud or deceit with the intent to
24 substantially benefit himself or another; and involved an act which
25 if done by a licentiate would be grounds for suspension or
26 revocation of a pharmacist license.

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WHEREFORE, Complainant prays that a hearing be held and if the allegations set forth herein, or any of them, are found to be true, that the application of Faramarz Ganjian for pharmacist licensure examination be denied.

DATED: 10/13/99

P. J. Harris
PATRICIA F. HARRIS
Executive Officer
California State Board of Pharmacy
Department of Consumer Affairs
State of California

Complainant

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