

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE PHARMACY EXAMINING BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
H.D. SMITH WHOLESALE DRUG COMPANY, : LS0806251PHM
RESPONDENT. :

Division of Enforcement Case Nos. 07 PHM 044

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

H.D. Smith Wholesale Drug Company
950 Lively Blvd
Wood Dale, IL 60191

H.D. Smith Wholesale Drug Company
4650 Industrial dRive
Springfield, IL 62703

H.D. Smith Wholesale Drug Company
410 Commerce Blvd Bldg B
Carlstadt, NJ 07072

Division of Enforcement
Department of Regulation and Licensing
1400 E Washington Avenue
P.O. Box 8935
Madison WI 53709-8935

Department of Regulation and Licensing
1400 E Washington Avenue
P.O. Box 8935
Madison WI 53709-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Pharmacy Examining Board. The Board has reviewed the attached Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. H.D. Smith Wholesale Drug Company (“Respondent”) is a corporation that operates three wholesale drug distributorships with Wisconsin licenses, with locations at 950 Lively Boulevard, Wood Dale, Illinois (license # 45-951, granted October 14, 1997), 4650 Industrial Drive, Springfield, Illinois (license #45-452, granted December 8, 1992), and 410 Commerce Boulevard Building B, Carlstadt, New Jersey (license # 45-1773, granted February 14, 2005).

2. On or about June 1, 2007, the State of Illinois Department of Financial and Professional Regulation approved a consent order in which H. D. Smith Wholesale Drug Company stipulated to the following facts:

- (a) Respondent purchased prescription medications between November 2002 and March 2003, from a source that was not appropriately licensed in the State of Illinois, in violation of Illinois statutes.
- (b) Respondent submitted evidence that the purchases were made by a former employee, in violation of company policy and without Respondent's knowledge. The company since instituted policies designed to prevent a reoccurrence of this violation.

3. Respondent agreed to a reprimand by the Illinois Department of Financial and Professional Regulation and a seventy-five thousand dollar fine. Respondent has paid the fine in a timely manner and in compliance with the consent order.

4. The prescription medication referred to in the Illinois consent order was repackaged Lipitor. The purchases were made in Illinois from Albers Medical Distributors, Inc. Respondent reported to the Board that there were twenty-three purchases, for a total of 137,336 bottles of Lipitor.

5. At least some of the Lipitor purchased from Albers Medical Distributors, Inc. by H.D. Smith Wholesale Drug Company was counterfeit. It has not been determined conclusively if counterfeit drugs were shipped to Wisconsin.

6. Respondent has no previous disciplinary actions in Wisconsin.

CONCLUSIONS OF LAW

1. The Wisconsin Pharmacy Examining Board has jurisdiction to act in this matter, pursuant to Wis. Stat. §450.10, and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44(5).

2. The conduct described in paragraphs 2-6 above constitutes a violation of Wis. Admin. Code § Phar 13.17(2) and Wis. Stat. § 450.10(1)(a)2 and subjects Respondent to discipline pursuant to Wis. Stat. § 450.10(1)(b)1.

ORDER

IT IS ORDERED:

1. H.D. Smith Wholesale Drug Company is REPRIMANDED.

2. Within 90 days of the date of this Order, Respondent shall pay a forfeiture of Fifteen Thousand Dollars (\$15,000.00).

3. Within 90 days of the date of this Order, Respondent must have paid the costs of this proceeding in the amount of One Thousand Three Hundred Dollars (\$1,300.00). Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935
Telephone (608) 267-3817
Fax (608) 266-2264

4. In the event Respondent fails to timely submit any payment of the forfeiture as set forth above, or fails to pay costs as ordered, Respondent's licenses (45-951), (45-452), and (45-1773) shall be suspended, without further notice or hearing, until Respondent has complied with the terms of this Order.

5. This Order is effective on the date of its signing.

Pharmacy Examining Board

By: Gregory C. Weber
A Member of the Board

6/25/08
Date