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6 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:	)	CASE NO. 2389
12 ROBERT JOSEPH CASSARA	)	OAH NO. L-20001060389
13 Pharmacist License No. 37654	)	STIPULATED SETTLEMENT
14 Respondent.	)	AND DISCIPLINARY ORDER FOR
	)	ROBERT JOSEPH CASSARA

15  
16 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
17 above-entitled proceeding that the following matters are true:

18 **PARTIES**

19 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of  
20 Pharmacy. She brought this action in her official capacity and is represented in this matter by  
21 Bill Lockyer, Attorney General of the State of California, by Stephen A Mills, Deputy Attorney  
22 General.

23 2. Respondent Robert Joseph Cassara is represented by Douglas W. Otto,  
24 Attorney at Law, Landmark Square, 111 West Ocean Boulevard, Suite 1300, P.O. Box 2210,  
25 Long Beach, California, 90801-2210, Fax (562) 590-7909.

26 3. On or about April 5, 1983, The Board of Pharmacy issued Original  
27 Pharmacist's License No. 37654 to Robert Joseph Cassara, Respondent herein. The pharmacist  
28 license was in full force and effect at all times relevant to the charges brought in Accusation

1 No. 2389. On or about December 13, 2001, Respondent entered into a Stipulation with the  
2 Board that he would not practice pharmacy until the resolution of this proceeding.

3 4. Accusation No. 2389 was filed before the Board of Pharmacy of the  
4 Department of Consumer Affairs, (Board), and is currently pending against Respondent. The  
5 Accusation, together all other statutorily required documents, was properly served on  
6 Respondent on May 24, 2001, and Respondent timely filed his Notice of Defense contesting the  
7 Accusation. A copy of Accusation No. 2387 is attached as Exhibit A and incorporated herein by  
8 reference.

### 9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and  
11 allegations in Accusation No. 2389. Respondent has also carefully read, and understands the  
12 effects of this Stipulated Settlement and Disciplinary Order.

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

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

### 22 CULPABILITY

23 8. In order to render a speedy resolution of this matter, Respondent admits  
24 the specific allegations of the first cause for Discipline in Accusation 2389, paragraph (1)(A), on  
25 page 3 of the Accusation, that Respondent had in his possession on February 14, 2001, two  
26 bottles of Hydrocodone Bitartrate 10 mg/APAP 325mg #100 tablets. Respondent further admits  
27 the specific allegations of the second cause for Discipline in Accusation No. 2389, paragraph  
28 (2)(A), on page 3-4 of the Accusation, that on February 14, 2001, Respondent was detained at his

1 place of employment, Sav-on Pharmacy #6197 by other employees for having a loaded handgun  
2 in his possession. Respondent admitted to the arresting officer that it was his gun.

3 Said admissions are made solely for the purpose of this or any other proceedings  
4 between Respondent and the California Board of Pharmacy and shall not be admissible in any  
5 other or collateral proceedings. In the event this Stipulation is not adopted by the Board, said  
6 admissions will be withdrawn.

7 9. Respondent agrees that his pharmacist license is subject to discipline, and  
8 he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary  
9 Order below.

10 **CONTINGENCY**

11 10. This Stipulation shall be subject to approval by the Board. Respondent  
12 understands and agrees that the Board of Pharmacy's staff and counsel for Complainant may  
13 communicate directly with the Board regarding this Stipulation and Settlement, without notice to  
14 or participation by Respondent. By signing this Stipulation, Respondent understands and agrees  
15 that he may not withdraw his agreement or seek to rescind the Stipulation prior to the time the  
16 Board considers and acts upon it. If the Board fails to adopt this Stipulation as its Decision and  
17 Order, the Stipulated Settlement and Disciplinary Order shall be of no force and effect, except for  
18 this paragraph, it shall be admissible in any legal action between the parties, and the Board shall  
19 not be disqualified from further action by having considered this matter.

20 11. The parties understand and agree that facsimile copies of this Stipulated  
21 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
22 force and effect as the originals.

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

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1                   3.     **Interview with the Board.** Upon receipt of reasonable notice,  
2 Respondent shall appear in person for interviews with the Board or its designee upon request at  
3 various intervals at a location to be determined by the Board or its designee. Failure to appear  
4 for a scheduled interview without prior notification to the Board shall be considered a violation  
5 of probation.

6                   4.     **Cooperation with the Board Staff.** Respondent shall cooperate with the  
7 Board's inspection program and in the Board's monitoring and investigation of the Respondent's  
8 compliance with the terms and conditions of his probation. Failure to cooperate shall be  
9 considered a violation of probation.

10                  5.     **Continuing Education.** Respondent shall provide evidence of efforts to  
11 maintain skill and knowledge as a pharmacist as directed by the Board.

12                  6.     **Notice to Employers.** Respondent shall notify all present and prospective  
13 employers of the decision in Case No. 2389 and the terms, conditions and restrictions imposed  
14 on Respondent Cassara by the decision. Within thirty (30) days of the effective date of this  
15 decision, and within fifteen (15) days of Respondent Cassara undertaking new employment,  
16 Respondent Cassara shall cause his employer to report to the Board in writing acknowledging the  
17 employer has read the decision in Case No. 2389.

18                         If Respondent Cassara works for or is employed by or through a pharmacy  
19 employment service, Respondent must notify the pharmacist-in-charge and/or owner at every  
20 pharmacy at which he is to be employed or used of the fact and terms of the decision in case  
21 number 2186 in advance of the Respondent commencing work at the pharmacy.

22                         "Employment" within the meaning of this provision shall include any full-time,  
23 part-time, temporary or relief service or pharmacy management service as a pharmacist, whether  
24 the Respondent is considered an employee or independent contractor.

25                  7.     **No Preceptorships, Supervision of Interns, Being Pharmacist-in-**  
26 **Charge.** Respondent shall not supervise any intern pharmacist or perform any of the duties of a  
27 preceptor, nor shall Respondent be the pharmacist-in-charge of any pharmacy licensed by the  
28 Board.

1                   8.       **No Ownership of Premises.** Respondent shall not own, have any legal or  
2 beneficial interest in, or serve as manager, administrator, member, officer, director, associate, or  
3 partner of any business, firm, partnership, or corporation currently of hereinafter licensed by the  
4 Board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by  
5 the Board within ninety (90) days following the effective date of this decision and shall  
6 immediately thereafter provide written proof thereof to the Board.

7                   9.       **Reimbursement of Board Costs.** Respondent Cassara shall pay to the  
8 Board its costs of investigation and prosecution in the amount of four thousand dollars  
9 (\$4,000.00). Respondent may make quarterly payments over a period of twelve (12) months to  
10 satisfy this condition. If Respondent fails to pay the costs as specified by the Board on or before  
11 the date(s) determined by the Board, the Board shall, without affording the Respondent notice  
12 and the opportunity to be heard, revoke probation and carry out the Disciplinary Order that was  
13 stayed. At its option, the Board may elect to extend the period of probation until such time as the  
14 sum of four thousand dollars (\$4,000.00) has been paid in full.

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

21                   It is a violation of probation for Respondent's probation to remain tolled pursuant  
22 to the provisions of this condition for a period exceeding a consecutive period of [three] years.

23                   10.       **Rehabilitation Program - Pharmacists Recovery Program. (PRP)**  
24 Within thirty (30) days of the effective date of this decision, Respondent shall contact the  
25 Pharmacists Recovery Program for evaluation and shall successfully participate in and complete  
26 the treatment contract and any subsequent addendums as recommended and provided by the PRP  
27 and as approved by the Board. Respondent shall not resume the practice of pharmacy until

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1 notified by the Board in writing. The costs for PRP participation shall be borne by the  
2 Respondent.

3 If Respondent is currently enrolled in the PRP, said participation is now  
4 mandatory and is no longer considered a self-referral under Business & Professions Code section  
5 4363, as of the effective date of this decision. Respondent shall successfully participate in and  
6 complete his or her current contract and any subsequent addendums with the PRP. Probation  
7 shall be automatically extended until Respondent successfully completes his treatment contract.  
8 Any person terminated from the program shall be automatically suspended upon notice by the  
9 Board. The Board shall retain jurisdiction to institute action to terminate probation for any  
10 violation of this term.

11 If recommended by the Pharmacist's Recovery Program, Respondent, at his  
12 expense, shall participate in random testing, including but not limited to biological fluid testing  
13 (urine, blood), breathalyzer, hair follicle testing, or a drug screening program approved by the  
14 Board. The length of time shall be for the entire probation period and the frequency of testing  
15 will be determined by the Board. At all times Respondent shall fully cooperate with the Board,  
16 and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics,  
17 hypnotics, dangerous drugs or other controlled substances. Failure to submit to such testing as  
18 directed shall constitute a violation of probation. Any confirmed positive drug test shall result in  
19 the immediate suspension of practice by the Respondent. Respondent may not resume the  
20 practice of pharmacy until notified by the Board in writing.

21 **11. Probation Monitoring Costs.** Respondent shall pay the costs associated  
22 with probation monitoring as determined by the Board each and every year of probation. Such  
23 costs shall be payable to the Board at the end of each year of probation. Failure to pay such costs  
24 shall be considered a violation of probation.

25 **12. Status of License.** Respondent Cassara shall, at all times while on  
26 probation, maintain an active current license with the Board, including any period during which  
27 suspension or probation is tolled. If Respondent's license expires by operation of law or

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1 otherwise, upon renewal or re-application, Respondent's license shall be subject to all terms of  
2 this probation not previously satisfied.

3           **13. Notification of Employment/Mailing Address Change.** Within ten (10)  
4 days of a change of employment - either leaving or commencing employment – Respondent  
5 Cassara shall notify the Board in writing, including the address of the new employer; within ten  
6 (10) days of a change of mailing address, Respondent Cassara shall notify the Board in writing.  
7 If Respondent works for or is employed through a pharmacy employment service, Respondent  
8 shall, as requested, provide to the Board or its designee a work schedule, indicating dates and  
9 location of employment.

10           **14. Tolling of Probation.** If Respondent Cassara leaves California to reside  
11 or practice outside this state, Respondent must notify the Board in writing of the dates of  
12 departure and return within ten (10) days of departure or return. Periods of residency, except  
13 such periods where the Respondent is actively practicing pharmacy within California, or practice  
14 outside California shall not apply to reduction or the probationary period.

15           **15. Violation of Probation.** If Respondent violates probation in any respect,  
16 the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation  
17 and carry out the disciplinary order which was stayed. If a petition to revoke probation or an  
18 accusation is filed against Respondent during probation, the Board shall have continuing  
19 jurisdiction, and the period of probation shall be extended, until the petition to revoke probation  
20 is heard and decided. If Respondent has not complied with any term or condition of probation,  
21 the Board shall have continuing jurisdiction over Respondent, and probation shall automatically  
22 be extended until all terms and conditions have been met or the Board has taken other action as  
23 deemed appropriate to treat the failure to comply as a violation of probation, to terminate  
24 probation, and to impose the penalty which was stayed.

25           **16. License Surrender while on Probation/Suspension.** Following the  
26 effective date of this decision, should Respondent cease practice due to retirement or health, or  
27 be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender his  
28 license to the Board for surrender. The Board shall have the discretion whether to grant the

1 request for surrender or take any action it deems appropriate and reasonable. Upon formal  
2 acceptance of the surrender of the license, Respondent will no longer be subject to the terms and  
3 conditions of probation.

4           Upon acceptance of the surrender, Respondent shall relinquish his pocket license  
5 to the Board within 10 (ten) days of notification by the Board that the surrender is accepted.  
6 Respondent may not reapply for any license from the Board for 3 (three) years from the effective  
7 date of the surrender. Respondent shall meet all requirements applicable to the license sought as  
8 of the date of the application for that license is submitted to the Board.

9           **17. Completion of Probation.** Upon successful completion of probation,  
10 Respondent's license and/or permit will be fully restored.

11           **18. Supervised Practice.** Respondent shall practice only under the  
12 supervision of a pharmacist not on probation with the Board. Respondent shall not practice until  
13 the supervisor is approved by the Board. The supervision shall be, as required by the Board,  
14 either:

15           Continuous - 75% to 100% of a work week

16           Substantial - At least 50% of a work week

17           Partial - At least 25% of a work week

18           Daily Review - Supervisor's review of probationer's daily activities within 24 hours

19           Within thirty (30) days of the effective date of this decision, Respondent shall  
20 have his or her supervisor submit notification to the Board in writing stating the supervisor has  
21 read the decision in case number 2389 and is familiar with the level of supervision as determined  
22 by the Board.

23           If Respondent changes employment, Respondent shall have his new supervisor,  
24 within fifteen (15) days after employment commences, submit notification to the Board in  
25 writing stating the direct familiar with the level of supervision as determined by the Board.

26           Within ten (10) days of leaving employment, Respondent shall notify the Board in  
27 writing.

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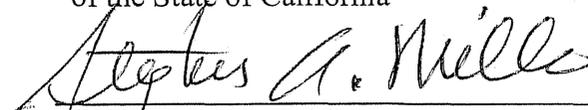
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ENDORSEMENT

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

DATED: September 4, 2002

BILL LOCKYER, Attorney General  
of the State of California



STEPHEN A. MILLS  
Deputy Attorney General

Attorneys for Complainant

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

In the Matter of the Accusation Against:

Case No. 2389

**ROBERT JOSEPH CASSARA**  
2281 Faust Ave  
Long Beach, CA 90815  
Pharmacist License No. RPH 37654

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER FOR  
ROBERT JOSEPH CASSARA**

Respondent.

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy of the Department of Consumer Affairs, as its Decision in the above-entitled matter.

This decision shall become effective on November 20, 2002.

It is so ORDERED on October 21, 2002.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



JOHN D. JONES  
Board President

1 BILL LOCKYER, Attorney General  
of the State of California  
2 MICHAEL A. SHEKEY, State Bar No. 143436  
Deputy Attorney General  
3 California Department of Justice  
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6 Attorneys for Complainant  
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8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against: Case No. 2389  
11 ROBERT CASSARA ACCUSATION  
12 2281 Faust Avenue  
13 Long Beach, CA 90815  
14 Pharmacist License No. 37654  
15 Respondent.

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16  
17 Complainant alleges:

18 PARTIES

- 19 1. Patricia F. Harris ("Complainant") brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer  
21 Affairs.  
22 2. On or about April 5, 1983, the Board of Pharmacy issued Pharmacist  
23 License Number 37654 to Robert Cassara ("Respondent"). The Pharmacist License was in full  
24 force and effect at all times relevant to the charges brought herein and will expire on December  
25 31, 2002, unless renewed.

26 JURISDICTION

3. This Accusation is brought before the Board of Pharmacy ("Board"), under the authority of the following sections of the Business and Professions Code ("Code").

4. Section 4300 of the Code permits the Board to take disciplinary action to suspend or revoke a license issued by the Board.

5. Section 4301 of the Code states that the Board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

(f) The commission of any act involving moral turpitude, dishonesty, fraud, 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.

(j) The violation of any of the statutes of this state or of the United States regulating controlled substances and dangerous drugs. Section 4301 of the Code states:

(p) Actions or conduct that would have warranted denial of a license.

6. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a physician assistant pursuant to Section 3502.1 or a nurse practitioner pursuant to Section 2836.1. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, physician, podiatrist, dentist, veterinarian, physician assistant, or nurse practitioner, when in stock in containers correctly labeled with the name and address of the supplier or producer.

Nothing in this section authorizes a nurse practitioner or a physician assistant to order his or her own stock of dangerous drugs and devices.

7. Section 125.3 of the Code provides, in pertinent part, that the Board may

1 request the administrative law judge to direct a licentiate found to have committed a violation or  
2 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
3 and enforcement of the case.

4 ///

5 8. CONTROLLED SUBSTANCES

6 A. "Hydrocodone Bitartrate" is a Schedule III controlled substance as  
7 defined in section 11056 of the Health and Safety Code.

8 B. "Tussionex" is a Schedule III controlled substance as defined in  
9 section 11056 of the Health and Safety Code.

10 FIRST CAUSE FOR DISCIPLINE

11 (Possession of a Controlled Substance)

12 1. Respondent is subject to disciplinary action under sections 4300 and  
13 4301((f), (j), and (p) of the Code on the grounds of unprofessional conduct for violating section  
14 4060 of the Code and section 11350 of the Health and Safety Code in that Respondent was in  
15 possession of a controlled substance. The circumstances are as follows:

16 A On or about February 14, 2001, was arrested at the Sav-On  
17 Pharmacy #6197 for theft of a controlled substance, i.e., Tussionex Syrup. At the time of his  
18 arrest, Respondent gave the arresting officer permission to search his brief case. The searched  
19 revealed that Respondent had in his possession two bottles of Hydrocodone Bitartrate  
20 10mg/APAP 325mg #100 tablets.

21 SECOND CAUSE FOR DISCIPLINE

22 (Moral Turpitude)

23 2. Respondent is subject to disciplinary action under section 4300 and  
24 4301((f) and (p) of the Code on the grounds of unprofessional conduct as more fully set forth  
25 below:

26 A On February 14, 2001, Respondent was detained at his place of  
27

employment, Sav-On Pharmacy #6197 by other employees for having a loaded handgun in his possession. Respondent admitted to the arresting officer that it was his gun.

B. On February 14, 2001, during an investigation of theft of controlled substances by the loss prevention/security director at Respondent's place of employment, Sav-On Pharmacy #6197, Respondent admitted to the director that he had stolen approximately 23 pints of Tussionex Syrup and approximately 5 quarts of liquid Hydrocodone Bitartrate.

P R A Y E R

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

1. Revoking or suspending Pharmacist License Number 37654, issued to Robert Cassara;
2. Ordering Robert Cassara to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 5/22/01

*P. J. Harris*

\_\_\_\_\_  
PATRICIA F. HARRIS  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
Complainant