

1 BILL LOCKYER, Attorney General
of the State of California
2 ERLINDA G. SHRENGER, State Bar No. 155904
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-5794
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

13 TAPO PHARMACY
2950 North Sycamore Drive
14 Simi Valley, California 93065
Pharmacy Permit No. PHY 32351

15 and

16 ALAN N. SIEGEL
9930 Genesta Avenue
17 Northridge, California 91325
Pharmacist License No. RPH 21740,

18 Respondents.

Case No. 2399

OAH No. L-2002050098

**STIPULATED SETTLEMENT FOR
PUBLIC LETTER OF REPRIMAND
RE: TAPO PHARMACY AND ALAN
N. SIEGEL**

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the Complainant,
21 Patricia F. Harris, and Respondents Tapo Pharmacy and Alan N. Siegel, that the following
22 matters are true:
23

24 PARTIES

25 1. Patricia F. Harris ("Complainant") is the Executive Officer of the Board of
26 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
27 by Bill Lockyer, Attorney General of the State of California, by Erlinda G. Shrenger, Deputy
28 Attorney General.

1 production of documents; the right to reconsideration and court review of an adverse decision;
2 and all other rights accorded by the California Administrative Procedure Act and other applicable
3 laws.

4 8. Respondent Tapo and Respondent Siegel voluntarily, knowingly, and
5 intelligently waive and give up each and every right set forth above.

6 CULPABILITY

7 9. Respondent Tapo and Respondent Siegel admit that the charges and
8 allegations in the Accusation, if proven at a hearing, constitute a cause for imposing discipline
9 upon their pharmacy permit and pharmacist license, respectively. Respondent Tapo and
10 Respondent Siegel agree that, at a hearing, Complainant could establish a factual basis for the
11 charges in the Accusation, and Respondent Tapo and Respondent Siegel hereby give up their
12 right to contest those charges at a hearing.

13 10. The admissions herein are made only for the purposes of this proceeding,
14 or any other proceedings in which the Board of Pharmacy or other professional licensing agency
15 is involved, and shall not be admissible in any other proceeding or forum.

16 CONTINGENCY

17 11. This stipulation shall be subject to approval by the Board of Pharmacy.
18 Respondent Tapo and Respondent Siegel understand and agree that counsel for Complainant and
19 the staff of the Board of Pharmacy may communicate directly with the Board regarding this
20 stipulation and settlement, without notice to or participation by Respondent Tapo or Respondent
21 Siegel or their counsel. By signing the stipulation, Respondent Tapo and Respondent Siegel
22 understand and agree that they may not withdraw their agreement or seek to rescind the
23 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
24 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
25 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
26 the parties, and the Board shall not be disqualified from further action by having considered this
27 matter.

28 ///

1 applicable to "premises". If Respondent Tapo is placed on probation, Respondent Tapo further
2 stipulates and agrees that its failure to pay the \$4,500.00 amount in full within three (3) years of
3 the effective date of this decision would constitute a violation of said probation.

4 ACCEPTANCE

5 I have carefully read the above Stipulated Settlement and Disciplinary Order and
6 have fully discussed it with my attorney, Ronald S. Marks. I understand the stipulation and the
7 effect it will have on my Pharmacy Permit and Pharmacist License. I enter into this Stipulated
8 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
9 bound by the Decision and Order of the Board of Pharmacy. I further agree that a facsimile copy
10 of this Stipulated Settlement, including facsimile copies of signatures, may be used with the
11 same force and effect as the originals.

12 DATED: 9/23/02.

13
14 
15 ALAN N. SIEGEL, Individually and as
16 Owner/President of Deal Enterprises Inc., dba TAPO
17 PHARMACY
18 Respondents

19 I have read and fully discussed with Respondents the terms and conditions and
20 other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its
21 form and content.

22 DATED: 9/26/02.

23 
24 RONALD S. MARKS, ESQ.
25 Attorney for Respondent

26 ///
27 ///
28 ///

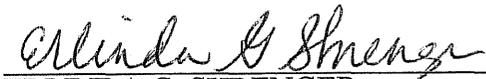
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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: 9-30-02.

BILL LOCKYER, Attorney General
of the State of California



ERLINDA G. SHRENGER
Deputy Attorney General
Attorneys for Complainant

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

In the Matter of the Accusation Against:

TAPO PHARMACY
2950 North Sycamore Drive
Simi Valley, California 93065
Pharmacy Permit No. PHY 32351,

and

ALAN N. SIEGEL
9930 Genesta Avenue
Northridge, California 91325
Pharmacist License No. RPH 21740,

Respondents.

Case No. 2399

OAH No. L-2002050098

DECISION AND ORDER

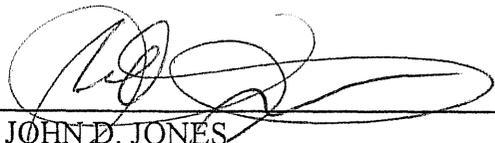
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on December 27, 2002.

It is so ORDERED November 27, 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 ERLINDA G. SHRENGER, State Bar No. 155904
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-5794
5 Facsimile: (213) 897-2804
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. 2399

12 TAPO PHARMACY
2950 North Sycamore Drive
13 Simi Valley, California 93065
Pharmacy Permit No. RHY 32351,

A C C U S A T I O N

14 ALAN N. SIEGEL
15 9930 Genesta Avenue
Northridge, California 91325
16 Pharmacist License No. RPH 21740,

17 and

18 LONNIE DANIEL KRUEGER
2208 N. Van Buren
19 San Angelo, Texas 76901
Registration No. TCH 21208,

20 Respondents.
21

22 Complainant alleges:

23 **PARTIES**

24 1. Patricia F. Harris ("Complainant") brings this Accusation solely in
25 her official capacity as the Executive Officer of the Board of Pharmacy, Department of
26 Consumer Affairs.

27 2. On or about September 16, 1985, the Board of Pharmacy ("Board")
28

1 conduct shall include, but is not limited to, any of the following:

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

5 (h) The administering to oneself, of any controlled substance, or the use
6 of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be
7 dangerous or injurious to oneself, to a person holding a license under this chapter, or to
8 any other person or to the public, or to the extent that the use impairs the ability of the
9 person to conduct with safety to the public the practice authorized by the license.

10 (j) The violation of any of the statutes of this state or of the United States
11 regulating controlled substances and dangerous drugs.

12 (k) The conviction of more than one misdemeanor or any felony involving
13 the use, consumption, or self-administration of any dangerous drug or alcoholic
14 beverage, or any combination of those substances.

15 (l) The conviction of a crime substantially related to the qualifications,
16 functions, and duties of a licensee.

17 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
18 abetting the violation of or conspiring to violate any provision or term of Chapter 9
19 (commencing with Section 4000) of the Business and Professions Code or of the
20 applicable federal and state laws and regulations governing pharmacy, including
21 regulations established by the Board.

22 9. Section 4059(a) of the Code states, in pertinent part, that no
23 person shall furnish any dangerous drug, except upon the prescription of a physician.

24 10. Section 4060 of the Code states, in part, that no person shall
25 possess any controlled substance, except that furnished to a person upon the
26 prescription of a physician or furnished pursuant to a drug order issued by a physician
27 assistant or a nurse practitioner.

28 11. Section 4081(a) of the Code states, in pertinent part, that a current

1 inventory shall be kept by every pharmacy, or establishment holding a currently valid
2 and unrevoked certificate, license, permit or registration, who maintains a stock of
3 dangerous drugs or dangerous devices.

4 12. Section 4081(b) of the Code states, in pertinent part, that the
5 owner, officer, and partner of any pharmacy, shall be jointly responsible, with the
6 pharmacist-in-charge or exemptee, for maintaining the records and inventory described
7 in this section.

8 13. Section 4115(a) of the Code states that notwithstanding any other
9 provision of law, a pharmacy technician may perform packaging, manipulative,
10 repetitive, or other nondiscretionary tasks, only while assisting, and while under the
11 direct supervision and control of, a pharmacist.

12 14. Section 4115(f) of the Code states, in pertinent part, that the
13 performance of duties by a pharmacy technician shall be under the direct supervision
14 and control of a pharmacist. The pharmacist on duty shall be directly responsible for
15 the conduct of a pharmacy technician.

16 15. Section 4116(a) of the Code states, in pertinent part, no person
17 other than a pharmacist, an authorized officer of the law, or a person authorized to
18 prescribe, shall be permitted in that area, place or premises described in the license
19 issued by the Board wherein controlled substances or dangerous drugs or dangerous
20 devices are stored, possessed, prepared, manufactured, derived, compounded,
21 dispensed, or repackaged.

22 16. Section 4022 of the Code defines "Dangerous Drugs" as any drug
23 that is unsafe for self-medication and which by federal or state law can be lawfully
24 dispensed only on prescription.

25 17. Section 490 of the Code, provides that the Board may suspend or
26 revoke a license when it finds that the licensee has been convicted of a crime, if the
27 crime is substantially related to the qualifications, functions, or duties of that license.

28 18. Health and Safety Code Section 11350(a) states, in pertinent part,

1 except as otherwise provided in this division, every person who possesses any
2 controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless
3 upon the written prescription of a physician licensed to practice in this state, shall be
4 punished by imprisonment in the state prison.

5 19. Health and Safety Code Section 11173(a) states that no person
6 shall obtain or attempt to obtain controlled substances, or procure or attempt to procure
7 the administration of or prescription for controlled substances, (1) by fraud, deceit,
8 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

9 20. Health and Safety Code Section 11550(a) states, in pertinent part,
10 that no person shall use, or be under the influence of any controlled substance which is
11 a narcotic drug classified in Schedule III, IV, or V, except when administered by or
12 under the direction of a person licensed by the state to dispense, prescribe, or
13 administer controlled substances.

14 21. Title 16, California Code of Regulations, section 1770 provides that
15 for purpose of denial, suspension, or revocation of a license, a crime or act shall be
16 considered substantially related to the qualifications, functions or duties of a licensee if
17 to a substantial degree it evidences present or potential unfitness of a licensee to
18 perform the functions authorized by his license in a manner consistent with public
19 health, safety, or welfare.

20 22. Title 16, California Code of Regulations, section 1709.1 states that
21 the pharmacist-in-charge of a pharmacy shall be employed at that location and shall
22 have responsibility for the daily operation of the pharmacy.

23 23. Title 16, California Code of Regulations, section 1718 states that
24 "Current Inventory" as used in Section 4232 of the Business and Professions Code
25 shall be considered to include complete accountability for all dangerous drugs handled
26 by every licensee enumerated in Section 4232.

27 24. Title 16, California Code of Regulations, section 1793.1(g) states
28 that a registered pharmacist must be responsible for all activities of pharmacy

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Against Respondent Krueger)**

3 **(Criminal Conviction)**

4 31. Respondent Krueger has subjected his license to discipline
5 pursuant to Section 4301 of the Code for unprofessional conduct, as defined in
6 Sections 4301(f), (k) and (l) of the Code, and Section 490 of the Code, and in
7 conjunction with Title 16, California Code of Regulations, section 1770, in that
8 Respondent Krueger was convicted of a crime substantially related to the qualifications,
9 functions, or duties of a pharmacist technician, by reason of the following:

10 a. On or about February 15, 2000, Respondent Krueger was
11 convicted by a guilty plea to one count of violating Health and Safety Code Section
12 11350(a) (possession of a narcotic - a felony) and one count of violating Penal Code
13 Section 487(a) (grand theft-embezzlement - a felony), in the Ventura Superior Court,
14 County of Ventura, Case No. CR46475, entitled The People of The State of California
15 v. Lonnie Daniel Krueger.

16 b. The circumstances surrounding the conviction are as follows: On
17 December 2, 1998, Respondent Krueger was arrested by Simi Valley Police Officers
18 after he was found in possession of pharmaceutical drugs unlawfully taken from
19 Respondent Pharmacy by Respondent Krueger while he was an agent, servant and
20 employee of Respondent Pharmacy on and between February 1, 1998 and December
21 2, 1998. Respondent Pharmacy did not discover the loss of said drugs until after
22 Respondent Krueger's arrest on December 2, 1998. At the time of his arrest, several
23 bottles of controlled substances were found in Respondent Krueger's possession
24 including, but not limited to, a bottle containing approximately 118 capsules of Vicodin
25 (hydrocodone). Respondent Krueger admitted to police officers that he took the bottles
26 containing the Vicodin and Soma (carisoprodol) capsules from Respondent Pharmacy.
27 On or about December 2, 1998, a urinalysis test was given to Respondent Krueger and
28 was found positive for amphetamine/methamphetamine.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SECOND CAUSE FOR DISCIPLINE

(Against Respondent Krueger)

(Fraud, Possession and Furnishing Controlled Substances)

32. Respondent Krueger has subjected his license to discipline pursuant to Section 4300 of the Code for unprofessional conduct as defined in Section 4301(f), (h), (j) of the Code, and in violation of Sections 4059(a) and 4060 of the Code and Sections 11173(a), 11158(a), 11170 of the Health and Safety Code, in that Respondent Krueger fraudulently possessed and furnished controlled substances to himself without a prescription, as described above in paragraph 31.

THIRD CAUSE FOR DISCIPLINE

(Against Respondent Krueger)

(Under the Influence of a Controlled Substance)

33. Respondent Krueger has subjected his license to discipline pursuant to Section 4300 of the Code for unprofessional conduct, as defined in Section 4301(o), (h), (j) of the Code, and in violation of Health and Safety Code Section 11550(a), in that Respondent Krueger was found to be under the influence of methamphetamine, a controlled substance, without a prescription, as described above in paragraph 31.

FOURTH CAUSE FOR DISCIPLINE

(Against Respondents Pharmacy and Siegel)

(Failure to Maintain Accurate Records)

34. Respondents Pharmacy and Siegel have subjected their licenses to discipline pursuant to Section 4301 of the Code for unprofessional conduct, as defined in Section 4301(o) of the Code, and in conjunction with Section 4081(a) of the Code and Title 16, California Code of Regulations, section 1718, in that Respondents Pharmacy and Siegel failed to maintain accurate records of dangerous drugs and a current inventory of dangerous drugs, as follows:

a. On or about May 28, 1999, the Board's inspector requested

1 Respondents Pharmacy and Siegel to conduct an audit of the drugs Vicodin (brand and
2 generic), Vicodin ES (brand and generic), Fastin (brand and generic), and Meridia, for
3 the period of Respondent Krueger's employment at Respondent Pharmacy (April 1,
4 1997 to December 16, 1998). A drug audit performed by Respondents Pharmacy and
5 Siegel, covering the period April 1, 1997 to December 16, 1998, revealed the following
6 amounts of drugs that are unaccounted for:

7	<u>Drug</u>	<u>Amount of Tablets/Capsules</u>
8		<u>Unaccounted for</u>
9	Vicodin, Brand	167
10	Vicodin, Generic	29,403
11	Vicodin ES, Brand	407
12	Vicodin ES, Generic	2,732
13	Fastin 30mg, Brand	72
14	Fastin 30mg, Generic	5,622
15	Meridia, 15mg	76

16 b. On June 9, 2000, the Board's inspector issued a violation notice to
17 Respondents Pharmacy and Siegel for failure to maintain supervision and visual control
18 over Respondent Krueger; failure to maintain accurate records of acquisitions and
19 disposition of dangerous drugs; and failure to maintain control and security over the
20 dangerous drug inventory in the pharmacy as it was delivered to patients.

21 **FIFTH CAUSE FOR DISCIPLINE**

22 **(Against Respondents Pharmacy and Siegel)**

23 **(Failure to Maintain Supervision)**

24 35. Respondents Pharmacy and Siegel have subjected their licenses
25 to discipline pursuant to Section 4301 of the Code for unprofessional conduct, as
26 defined in Section 4301(j) of the Code, and in conjunction with Sections 4115(a) and (f)
27 and 4116(a) of the Code and Title 16, California Code of Regulations, section
28 1793.1(g), in that Respondent Siegel's lack of supervision of Respondent Krueger

1 allowed Krueger to remove drugs from Respondent Pharmacy when he delivered drugs
2 to patients, which resulted in the loss of drugs as described in paragraph 34, above.

3 **SIXTH CAUSE FOR DISCIPLINE**

4 **(Against Respondents Pharmacy and Siegel)**

5 **(Failure to Maintain Control and Security Over Inventory)**

6 36. Respondents Pharmacy and Siegel have subjected their licenses
7 to discipline pursuant to Section 4300 of the Code for unprofessional conduct, as
8 defined in Section 4301(j), and in conjunction with Section 4081(b) of the Code and
9 Title 16, California Code of Regulations, sections 1709.1 and 1714(b) and (d), in that
10 Respondent Siegel failed to maintain control and security over the dangerous drug
11 inventory in the pharmacy and as such inventory was delivered to patients, which
12 resulted in the loss of drugs as described in paragraph 34, above.

13 **PRAYER**

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

- 17 1. Revoking or suspending Pharmacy Permit Number PHY 32351,
18 issued to Tapo Pharmacy;
- 19 2. Revoking or suspending Pharmacist License Number RPH 21740,
20 issued to Alan N. Siegel;
- 21 3. Revoking or suspending Registration Number TCH 21208, issued
22 to Lonnie Daniel Krueger;
- 23 4. Ordering Tapo Pharmacy, Alan N. Siegel and Lonnie Daniel
24 Krueger to pay the Board of Pharmacy the reasonable costs of the investigation and
25 enforcement of this case, pursuant to Business and Professions Code Section 125.3;
26 and

27 //

28 //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

5. Taking such other and further action as deemed necessary and proper.

DATED: 3/8/02



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

03583110-LA2001AD0803