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8 Attorneys for Complainant

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

11
12 In the Matter of the Accusation Against:

Case No. 2438

13 JEAN MARIE GONZALES

OAH No. Not Assigned

14 Pharmacist License No. RPH 32315

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Respondent.
16

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

19 PARTIES

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

24 2. Respondent JEAN MARIE GONZALES (Respondent) is represented in
25 this proceeding by attorney James Riddett, whose address is 3 Imperial Promenade #750, Santa
26 Ana, CA 92707.

27 3. On or about August 14, 1978, the Board of Pharmacy issued Pharmacist
28 License RPH No. 32315 to JEAN MARIE GONZALES (Respondent). Said license was in full

1 force and effect at all times relevant to the charges brought in Accusation No. 2438 and will
2 expire on December 31, 2001, unless renewed.

3 JURISDICTION

4 4. Accusation No. 2438 was filed before the Board of Pharmacy (Board),
5 Department of Consumer Affairs,, and is currently pending against Respondent. The Accusation
6 and all other statutorily required documents were properly served on Respondent on December 5,
7 2001. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of
8 Accusation No. 2438 is attached as exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, fully discussed with counsel, and
11 understands the charges and allegations in Accusation No. 2438. Respondent has also carefully
12 read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and
13 Disciplinary Order.

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

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

23 CULPABILITY

24 8. Respondent admits the truth of each and every charge and allegation in
25 Accusation No. 2438.

26 9. Respondent agrees that his Pharmacist License RPH 32315 is subject to
27 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
28 Disciplinary Order below.

CONTINGENCY

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10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter. Further, if Respondent should ever reapply or seek reinstatement of his license, said reinstatement shall be conditioned upon reimbursement of \$1,136.25 in costs being paid in full to the Board of Pharmacy.

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

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

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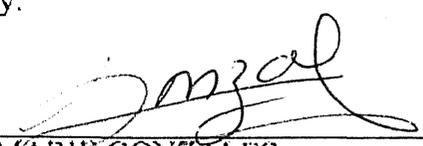
DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacist License RPH No. 32315 issued to Respondent JEAN MARIE GONZALES is revoked.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, James Riddett. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 2/5/02



JEAN MARIE GONZALES
Respondent

I have read and fully discussed with Respondent JEAN MARIE GONZALES the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 2/11/02



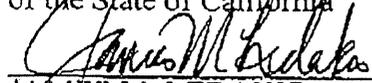
JAMES RIDDETT
Attorney for Respondent

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: January 31, 02

BILL LOCKYER, Attorney General
of the State of California



JAMES M. LEDAKIS
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:

JEAN MARIE GONZALES

Pharmacist License RPH No. 32315

Respondent.

Case No. 2438

OAH No. Not Assigned

DECISION AND ORDER

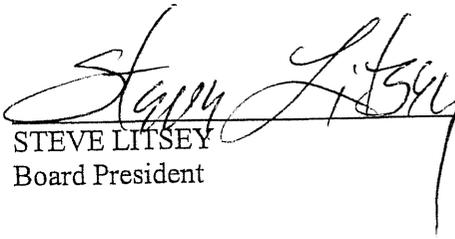
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on April 28, 2002.

It is so ORDERED March 29, 2002.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By:



STEVE LITSEY
Board President

1 BILL LOCKYER, Attorney General
of the State of California
2 JAMES M. LEDAKIS, State Bar No. 132645
Deputy Attorney General
3 California Department of Justice
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7 Attorneys for Complainant
8

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

12 In the Matter of the Accusation Against:

Case No. 2436

13 JEAN MARIE GONZALES

A C C U S A T I O N

14 Pharmacist License Number RPH 32315

15 Respondent.
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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 August 14, 1978, the Board of Pharmacy issued License
23 Number 32315 to JEAN MARIE GONZALES ("Respondent"). Said license is in full force and
24 effect until December 31, 2001.

25 JURISDICTION

26 3. This Accusation is brought before the Board of Pharmacy ("Board"),
27 under the authority of the following sections of the Business and Professions Code ("Code").
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4. Section 4301 of the Code states:

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.

"(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

"...

"(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under Chapter 9 (commencing with Section 4000) of the Business and Professions Code. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under Chapter 9 (commencing with Section 4000) of the Business and Professions Code. 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

1 imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the
2 Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of
3 not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information,
4 or indictment.

5 "...

6 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or
7 abetting the violation of or conspiring to violate any provision or term of Chapter 9
8 (commencing with Section 4000) of the Business and Professions Code or of the
9 applicable federal and state laws and regulations governing pharmacy, including
10 regulations established by the board.

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

12 5. Section 125.3 of the Code states, in pertinent part, that the Board may
13 request the administrative law judge to direct a licentiate found to have committed a violation or
14 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
15 and enforcement of the case.

16 FIRST CAUSE FOR DISCIPLINE

17 (Unprofessional Conduct Involving Moral Turpitude, Fraud

18 Dishonesty, Deceit or Corruption)

19 6. Respondent is subject to disciplinary action under section 4301 (f) for the
20 commission of any act involving moral turpitude, dishonesty, fraud, deceit or corruption. The
21 circumstances are as follows:

22 7. From on or about January 23, 1997 to January 1, 1998, Jean Marie
23 Gonzales owned, operated and controlled Pharmedic Inc. doing business as Time Pharmacy
24 located in Santa Ana, California. During that time Respondent devised a scheme to defraud and
25 obtain money from insurance companies by means of materially false and fraudulent pretenses.
26 Respondent's scheme mislead insurance companies into believing that the medications for which
27 Time Pharmacy billed insurance companies had actually been dispensed to insurance patient
28 members, when in fact, such medications had never been requested by patient members, nor

1 dispensed by Time Pharmacy. In this manner, Respondent stole in excess of \$250,000. from the
2 various insurance companies.

3 SECOND CAUSE FOR DISCIPLINE

4 (Unprofessional Conduct Making or Signing False Documents)

5 8. Respondent is subject to disciplinary action under section 4301(g) for
6 knowingly making or signing any certificate or other document that falsely represents the
7 existence or nonexistence of a state of facts.

8 9. From on or about January 23, 1997 to January 1, 1998, Jean Marie
9 Gonzales owned, operated and controlled Pharmedic Inc. doing business as Time Pharmacy
10 located in Santa Ana, California. During that time Respondent, submitted false claims to private
11 health insurance companies, Prescription Solutions and Blue Cross/Wellpoint; thereafter
12 Respondent billed and received checks for prescriptions that were never filled.

13 THIRD CAUSE FOR DISCIPLINE

14 (Unprofessional Conduct Violation of Federal or State Laws Governing Pharmacy)

15 10. Respondent is subject to disciplinary action under section 4301 (o) for
16 violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of
17 or conspiring to violate any provision or term of this chapter or of the applicable federal and state
18 laws and regulations governing pharmacy, including regulations established by the Board.

19 11. Complainant incorporates by reference as though fully set forth herein
20 paragraphs 7 and 9 above.

21 FOURTH CAUSE FOR DISCIPLINE

22 (Unprofessional Conduct Conviction of a Crime Substantially Related
23 to the Functions and Duties of a Pharmacist)

24 12. Respondent is subject to disciplinary action under section 4301 (l),
25 because on February 7, 2001. Respondent was indicted in the United States District Court for the
26 Central District of California, Criminal Case No. SA CR 01-020 for Mail Fraud and Engaging in
27 Monetary Transactions Involving Proceeds of Specified Unlawful Activity.

28 13. Complainant incorporates by reference as though fully set forth herein

1 paragraphs 7 and 9 above.

2 FIFTH CAUSE FOR DISCIPLINE

3 (Unprofessional Conduct For Actions Warranting Denial of a License)

4 14. Respondent is subject to disciplinary action under section 4301 (p),
5 for conduct that would have warranted denial of his license.

6 15. Complainant incorporates by reference as though fully set forth
7 herein paragraphs 7 and 9 above.

8 PRAYER

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

11 1. Revoking or suspending Pharmacist License number 32315, issued to
12 JEAN MARIE GONZALES;

13 2. Ordering JEAN MARIE GONZALES to pay the Board of Pharmacy the
14 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
15 Professions Code section 125.3;

16 3. Taking such other and further action as deemed necessary and proper.

17 DATED: 1/21/01

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19
20 P. J. Harris
21 PATRICIA F. HARRIS
22 Executive Officer
23 Board of Pharmacy
24 Department of Consumer Affairs
25 State of California
26 Complainant

27 accusation jml 9-27-01

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