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

13 In the Matter of the Accusation Against:

14 DARRAN RUSSELL
P.O. Box 13161
Carlsbad, CA 92009

15 Respondent.

Case No. Administrative Case No. 2464

OAH No. L-2002010601

16 **STIPULATED SETTLEMENT AND**
17 **DISCIPLINARY ORDER**

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

20 PARTIES

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

25 2. Darran L. Russell (Respondent) is representing himself in this proceeding
26 and has chosen not to exercise his right to be represented by counsel.

27 3. On or about July 14, 1972, the Board of Pharmacy issued Pharmacist
28 License RPH No. 27797 to Darran L. Russell, P.O. Box 131361 Carlsbad, CA 92009
(Respondent). Said license will expire on January 31, 2003 unless renewed.

1 governing the practice of pharmacy. Respondent shall report any of the following occurrences to
2 the board, in writing, within 72 hours of such occurrence:

- 3 • an arrest or issuance of a criminal complaint for violation of any provision of the
4 Pharmacy Law, state and federal food and drug laws, or state and federal
5 controlled substances laws;
- 6 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to
7 any criminal complaint, information or indictment;
- 8 • a conviction of any crime;
- 9 • discipline, citation, or other administrative action filed by any state and federal
10 agency which involves respondent's pharmacist license or which is related to
11 the practice of pharmacy or the manufacturing, obtaining, handling or
12 distribution or billing or charging for of any drug, device or controlled
13 substance;

14 **2. Reporting to the Board**

15 Respondent shall report to the board quarterly. The report shall be made either in person or in
16 writing, as directed. Respondent shall state under penalty of perjury whether there has been
17 compliance with all the terms and conditions of probation. If the final probation report **is not**
18 made as directed, probation shall be extended automatically until such time as the final report
19 is made and accepted by the board.

20 **3. Interview with the Board**

21 Upon receipt of reasonable notice, respondent shall appear in person for interviews with the
22 board upon request at various intervals at a location to be determined by the board. Failure to
23 appear for a scheduled interview without prior notification to board staff shall be considered a
24 violation of probation.

25 **4. Cooperation with Board Staff**

26 Respondent shall cooperate with the board's inspectional program and in the board's
27 monitoring and investigation of respondent's compliance with the terms and conditions of his
28 or her probation. Failure to comply shall be considered a violation of probation.

1 **5. Continuing Education**

2 Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist
3 as directed by the board.

4 **6. Notice to Employers**

5 Respondent shall notify all present and prospective employers of the decision in case number
6 2464 and the terms, conditions and restrictions imposed on respondent by the decision.

7 Within 30 days of the effective date of this decision, and within 15 days of respondent
8 undertaking new employment, respondent shall cause his or her direct supervisor, pharmacist-
9 in-charge and/or owner to report to the board in writing acknowledging the employer has read
10 the decision in case number 2464. If respondent works for or is employed by or through a
11 pharmacy employment service, respondent must notify the direct supervisor, pharmacist-in-
12 charge, and/or owner at every pharmacy of the and terms and conditions of the decision in
13 case number 2464 in advance of the respondent commencing work at each pharmacy.

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

17 **7. No Preceptorships, Supervision of Interns, Being Pharmacist-in-Charge (PIC), or**
18 **Serving as a Consultant**

19 Respondent shall not supervise any intern pharmacist or perform any of the duties of a
20 preceptor, nor shall respondent be the pharmacist-in-charge of any entity licensed by the board
21 unless otherwise specified in this order.

22 **8. Reimbursement of Board Costs**

23 Respondent shall pay to the board its costs of investigation and prosecution in the amount of
24 \$2,324. The filing of bankruptcy by respondent shall not relieve respondent of his or her
25 responsibility to reimburse the board its costs of investigation and prosecution.

26 **9. Probation Monitoring Costs**

27 Respondent shall pay the costs associated with probation monitoring as determined by the
28 board each and every year of probation. Such costs shall be payable to the board at the end of

1 each year of probation. Failure to pay such costs shall be considered a violation of probation.

2 **10. Status of License**

3 Respondent shall, at all times while on probation, maintain an active current license with the
4 board, including any period during which suspension or probation is tolled.

5 If respondent's license expires or is canceled by operation of law or otherwise, upon renewal
6 or re-application, respondent's license shall be subject to all terms and conditions of this
7 probation not previously satisfied.

8 **11. License Surrender while on Probation/Suspension**

9 Following the effective date of this decision, should respondent cease practice due to
10 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
11 respondent may tender his or her license to the board for surrender. The board shall have the
12 discretion whether to grant the request for surrender or take any other action it deems
13 appropriate and reasonable. Upon formal acceptance of the surrender of the license,
14 respondent will no longer be subject to the terms and conditions of probation. Upon
15 acceptance of the surrender, respondent shall relinquish his or her pocket license to the board
16 within 10 days of notification by the board that the surrender is accepted. Respondent may not
17 reapply for any license from the board for three years from the effective date of the surrender.
18 Respondent shall meet all requirements applicable to the license sought as of the date the
19 application for that license is submitted to the board.

20 **12. Notification of Employment/Mailing Address Change**

21 Respondent shall notify the board in writing within 10 days of any change of employment.
22 Said notification shall include the reasons for leaving and/or the address of the new employer,
23 supervisor or owner and work schedule if known. Respondent shall notify the board in
24 writing within 10 days of a change in name, mailing address or phone number.

25 **13. Tolling of Probation**

26 Respondent shall work at least 40 hours in each calendar month as a pharmacist and at least an
27 average of 80 hours per month in any six consecutive months. Failure to do so will be a
28 violation of probation. If respondent has not complied with this condition during the

1 probationary term, and respondent has presented sufficient documentation of his or her good
2 faith efforts to comply with this condition, and if no other conditions have been violated, the
3 board, in its discretion, may grant an extension of respondent's probation period up to one
4 year without further hearing in order to comply with this condition.

5 **14. Violation of Probation**

6 If respondent violates probation in any respect, the board, after giving respondent notice and
7 an opportunity to be heard, may revoke probation and carry out the disciplinary order which
8 was stayed. If a petition to revoke probation or an accusation is filed against respondent
9 during probation, the board shall have continuing jurisdiction and the period of probation shall
10 be extended, until the petition to revoke probation or accusation is heard and decided.

11 If a respondent has not complied with any term or condition of probation, the board shall have
12 continuing jurisdiction over respondent, and probation shall automatically be extended until
13 all terms and conditions have been satisfied or the board has taken other action as deemed
14 appropriate to treat the failure to comply as a violation of probation, to terminate probation,
15 and to impose the penalty which was stayed.

16 **15. Completion of Probation**

17 Upon successful completion of probation, respondent's license will be fully restored.

18 **16. Actual Suspension**

19 As part of probation, respondent is suspended from the practice of pharmacy for 90 days
20 beginning the effective date of this decision. During suspension, respondent shall not enter
21 any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-
22 animal drug retailer or any other distributor of drugs which is licensed by the board, or any
23 manufacturer, or where dangerous drugs and devices or controlled substances are maintained.
24 Respondent shall not practice pharmacy nor do any act involving drug selection, selection of
25 stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent
26 manage, administer, or be a consultant to any licensee of the board, or have access to or
27 control the ordering, manufacturing or dispensing of dangerous drugs and devices or
28 controlled substances. Respondent shall not engage in any activity that requires the

1 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of
2 the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician
3 or an exemptee for any entity licensed by the board. Subject to the above restrictions,
4 respondent may continue to own or hold an interest in any pharmacy in which he or she holds
5 an interest at the time this decision becomes effective unless otherwise specified in this order.
6 During suspension, respondent shall not enter any pharmacy area or any portion of the
7 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor
8 of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and
9 devices or controlled substances are maintained. Respondent shall not practice pharmacy nor
10 do any act involving drug selection, selection of stock, manufacturing, compounding,
11 dispensing or patient consultation; nor shall respondent manage, administer, **or** be a consultant
12 to any licensee of the Board, or have access to or control the ordering, manufacturing or
13 dispensing of dangerous drugs and controlled substances. Respondent shall not engage in any
14 activity that requires the professional judgment of a pharmacist. Respondent shall not direct
15 or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a
16 pharmacy technician or an exemptee for any entity licensed by the board. Subject to the
17 above restrictions, respondent may continue to own or hold an interest in any pharmacy in
18 which he or she holds an interest at the time this decision becomes effective unless otherwise
19 specified in this order.

20 Upon the effective date of this decision, respondent shall not engage in the practice of
21 pharmacy until notified in writing by the board of its determination that respondent is
22 medically fit to practice safely and independently, and the board approves said
23 recommendation.

24 **17. Rehabilitation Program - Pharmacists Recovery Program (PRP) (Appropriate for**
25 **chemical dependency (alcohol, drugs), or psychiatric disorders (mental illness,**
26 **emotional disturbance, gambling)**

27 Within 30 days of the effective date of this decision, respondent shall contact the Pharmacists
28 Recovery Program for evaluation and shall successfully participate in and complete the

1 treatment contract and any subsequent addendums as recommended and provided by the PRP
2 and as approved by the board. The costs for PRP participation shall be borne by the
3 respondent. If respondent is currently enrolled in the PRP, said participation is now
4 mandatory and is no longer considered a self-referral under Business and Professions Code
5 section 4363, as of the effective date of this decision. Respondent shall successfully
6 participate in and complete his or her current contract and any subsequent addendums with the
7 PRP. Probation shall be automatically extended until respondent successfully completes his
8 or her treatment contract. Any person terminated from the program shall be automatically
9 suspended upon notice by the board. Respondent may not resume the practice of pharmacy
10 until notified by the board in writing. The board shall retain jurisdiction to institute action to
11 terminate probation for any violation of this term.

12 **18. Random Drug Screening** (If PRP provision is required, this term is also to be
13 included to allow for continued fluid monitoring by the Board in cases where a respondent
14 successfully complete the PRP before completion of the probation period; terms also
15 appropriate for those cases where the evidence demonstrates that the respondent may have a
16 problem with chemical dependency (drugs, alcohol) but where the PRP is not required.)
17 Within 30 days of the effective date of this decision, respondent shall contact the Pharmacists
18 Recovery Program for evaluation and shall successfully participate in and complete the
19 treatment contract and any subsequent addendums as recommended and provided by the PRP
20 and as approved by the board. The costs for PRP participation shall be borne by the
21 respondent.

22 If respondent is currently enrolled in the PRP, said participation is now mandatory and
23 is no longer considered a self-referral under Business and Professions Code section 4363, as
24 of the effective date of this decision. Respondent shall successfully participate in and
25 complete his or her current contract and any subsequent addendums with the PRP. Probation
26 shall be automatically extended until respondent successfully completes his or her treatment
27 contract. Any person terminated from the program shall be automatically suspended upon
28 notice by the board. Respondent may not resume the practice of pharmacy until notified by

1 the board in writing. The board shall retain jurisdiction to institute action to terminate
2 probation for any violation of this term.

3 **19. Abstain from Drugs and Alcohol Use**

4 Respondent shall completely abstain from the possession or use of alcohol, controlled
5 substances, dangerous drugs and their associated paraphernalia except when the drugs are
6 lawfully prescribed by a licensed practitioner as part of a documented medical treatment.

7 Upon request of the board, respondent shall provide documentation from the licensed
8 practitioner that the prescription was legitimately issued and is a necessary part of the
9 treatment of the respondent.

10 **20. Supervised Practice**

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

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

15 Substantial - At least 50% of a work week

16 Partial - At least 25% of a work week

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

18 Within 30 days of the effective date of this decision, respondent shall have his or her
19 supervisor submit notification to the board in writing stating the supervisor has read the
20 decision in case number 2464 and is familiar with the level of supervision as determined by
21 the board.

22 If respondent changes employment, respondent shall have his or her new supervisor,
23 within 15 days after employment commences, submit notification to the board in writing
24 stating the direct supervisor and pharmacist-in-charge have read the decision in case number
25 2464 and is familiar with the level of supervision as determined by the board.

26 Within 10, days of leaving employment, respondent shall notify the board in writing.

27 /

28 /

1 **21. No Ownership of Premises**

2 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
3 administrator, member, officer, director, associate, or partner of any business, firm,
4 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall
5 sell or transfer any legal or beneficial interest in any entity licensed by the board within 90
6 days following the effective date of this decision and shall immediately thereafter provide
7 written proof thereof to the board.

8 **22. Tolling of Suspension**

9 If respondent leaves California to reside or practice outside this state, for any period exceeding
10 10 days (including vacation), respondent must notify the board in writing of the dates of
11 departure and return. Periods of residency or practice outside the state - or any absence
12 exceeding a period of 10 days shall not apply to the reduction of the suspension period.
13 Respondent shall not practice pharmacy upon returning to this state until notified by the board
14 that the period of suspension has been completed.

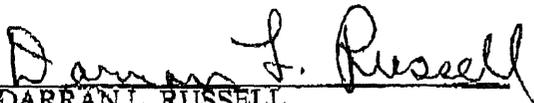
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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my pharmacist RPH license number 27797. 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: 5/7/02


DARRAN L. RUSSELL
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: 5-7-02

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:

DARRAN RUSSELL
P.O. Box 13161
Carlsbad, CA 92009

Respondent.

Case No. Administrative Case No. 2464

OAH No. L-2002010601

DECISION AND ORDER

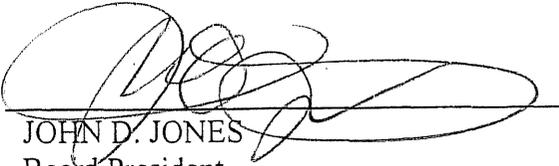
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on July 27, 2002.

It is so ORDERED June 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 JAMES M. LEDAKIS, State Bar No. 132645
Deputy Attorney General
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7 Attorneys for Complainant
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10 **BEFORE THE**
BOARD OF PHARMACY
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No.

13 DARRAN RUSSELL
14 P.O. BOX 131361
Carlsbad, CA 92009

ACCUSATION

15 Pharmacist License No. RPH 27797

16 Respondent.
17

18
19 Complainant alleges:

20 PARTIES

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

24 2. On or about July 14, 1972, the Board of Pharmacy issued Pharmacist
25 License Number RPH 27797 to DARRAN RUSSELL ("Respondent"). The License was in full
26 force and effect at all times relevant to the charges brought herein and will expire on January 31,
27 2002, unless renewed.
28

JURISDICTION

1
2 3. This Accusation is brought before the Board of Pharmacy ("Board"),
3 under the authority of the following sections of the Business and Professions Code ("Code").

4 4. Section 4301 of the Code states:

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

9 "(a) . . .

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

13 "(h) The administering to oneself, of any controlled substance, or the use of any
14 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous
15 or injurious to oneself, to a person holding a license under Chapter 9 (commencing with
16 Section 4000) of the Business and Professions Code, or to any other person or to the
17 public, or to the extent that the use impairs the ability of the person to conduct with safety
18 to the public the practice authorized by the license.

19 ". . .

20 "(n) The revocation, suspension, or other discipline by another state of a license to
21 practice pharmacy, operate a pharmacy, or do any other act for which a license is required
22 by Chapter 9 (commencing with Section 4000) of the Business and Professions Code.

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

24 5. Section 125.3 of the Code states, in pertinent part, that the Board may
25 request the administrative law judge to direct a licentiate found to have committed a violation or
26 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
27 and enforcement of the case
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6. California Code of Regulations Section 1770 states in pertinent part:

"... , a crime or act shall be substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare."

7. Health & Safety Code Section 11170 states in pertinent part:

" No person shall prescribe, administer, or furnish a controlled substance substance for himself."

8. Health & Safety Code Section 11173 (a) states in pertinent part:

" No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge. . . ,"

DRUGS

9. At all times mentioned herein, the following drugs were and are dangerous drugs within the meaning of the Code section 4022 and controlled substances under the California Health & Safety Code ("H&S Code"), as noted hereinafter:

10. "Valium," a brand of diazepam, is a Schedule IV controlled substance as designated by California Health and Safety Code section 11057(d)(8).

11. "Vicodin," a brand name for hydrocodone bitartrate and acetaminophen, is a Schedule III controlled substance under Health and Safety Code section 11056.

12. "Soma", also known as carisoprodol is a dangerous drug under Business & Professions Code Section 4022 (a).

13. "Darvon," a brand name for propoxyphene hydrochloride, is a Schedule IV controlled substance under Health and Safety Code section 11057(c)(2).

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct Commission of any Act Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

14. Respondent is subject to disciplinary action under section 4301(f) in that

1 between March 1997 and March 1998, while Respondent was working as a licensed Nevada
2 pharmacist, he admitted to unlawfully and wilfully taking an estimated 450 tablets of the
3 aforementioned drugs set forth above from his employer, Rite Aid Pharmacy, located in
4 Gardnerville, Nevada.

5 SECOND CAUSE FOR DISCIPLINE

6 (Unprofessional Conduct for Administering to Oneself a Controlled Substance)

7 15. Respondent is subject to disciplinary action under section 4301(h) in that
8 he admitted to self administration of the aforementioned drugs without a prescription.

9 16. In his statement to the Nevada District Court, dated May 19, 1998,
10 Respondent stated:

11 "In March of 1997, I began treating myself at work for lower back pain and
12 spasm-encountered by being on my feet without break for 10 hour & 12 hour shifts. I
13 became habituated to taking therapeutic doses of pain relievers and muscle relaxants to
14 relieve the discomfort. Because I stay pretty healthy I have a stubborn reluctance to see
15 doctors. In retrospect I wish I had. I am very sorry for any and all trouble, I have caused
16 myself, my former company and associates. I am seeing C.S.A.C-John Glen and doing
17 very well. I want to get on with my life and get into some nutrition and natural healing
18 goals I have."

19 THIRD CAUSE FOR DISCIPLINE

20 (Unprofessional Conduct Because of Revocation, Suspension, or
21 Other Discipline by Another State)

22 17. Respondent is subject to disciplinary action under section 4301(m)
23 because of his theft and self administration of the aforementioned drugs, the Nevada State Board
24 of Pharmacy revoked Respondent's Nevada pharmacy license, but stayed said revocation
25 pending successful completion of five years probation.

26 FOURTH CAUSE FOR DISCIPLINE

27 (Health & Safety Code Violation for Obtaining Controlled
28 Substances through Fraud)

18. Respondent is subject to disciplinary action under section H&S Code
section 11173(a) in that Respondent obtained controlled substances as set forth above by
unlawfully and fraudulently taking them from his former employer, Rite Aid Pharmacy

1 19. Complainant incorporates by reference paragraphs 1-18 above as though
2 fully set forth.

3 FIFTH CAUSE FOR DISCIPLINE

4 (Unprofessional Conduct for Acts that Would Have
5 Warranted Denial of a License)

6 20. Respondent is subject to disciplinary action under section 4301(p) for his
7 fraudulent taking of drugs and self administration of same as set forth above, which conduct
8 would have been the basis for denial of his California Pharmacy license.

9 21. Complainant incorporates by reference paragraphs 1-20, above as though
10 fully set forth.

11 PRAYER

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

14 1. Revoking or suspending License Number Pharmacist License Number
15 RPH 27797, issued to DARRAN RUSSELL;

16 2. Ordering DARRAN RUSSELL to pay the Board of Pharmacy the
17 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
18 Professions Code section 125.3;

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

20 DATED: 11/21/01

21
22
23 *P. Harris*
24 PATRICIA F. HARRIS
25 Executive Officer
26 Board of Pharmacy
27 Department of Consumer Affairs
28 State of California
Complainant