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8 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

13 RONALD ESTLE PARTAIN
14 9453 Avenida San Timoteo
Cherry Valley, CA 92223

15 Original Pharmacist License No. RPH 27551

16 and

17 RONALD E. PARTAIN PHARMACIST
18 701 North Highland Springs #4
Beaumont, CA 92223

19 Original Pharmacy Permit No. PHY 32788

20 Respondent.

Case No. 2517

OAH No. L-2002100146

**STIPULATED SETTLEMENT
AND ORDER**

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

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 Linda K. Schneider, Deputy
28 Attorney General.

1 by counsel at their own expense; the right to confront and cross-examine the witnesses against
2 them; the right to present evidence and to testify on their own behalf; the right to the issuance of
3 subpoenas to compel the attendance of witnesses and the production of documents; the right to
4 reconsideration and court review of an adverse decision; and all other rights accorded by the
5 California Administrative Procedure Act and other applicable laws.

6 9. Respondents voluntarily, knowingly, and intelligently waive and give up
7 each and every right set forth above.

8 CULPABILITY

9 10. Respondent Pharmacy admits the truth of the facts alleged in paragraph 19
10 of Accusation No. 2517 and that it has therefore violated Title 16, California Code of
11 Regulations section 1714, subdivision (b).

12 11. Respondent Pharmacist and Respondent Pharmacy both admit they failed
13 to inform the Board and follow official instructions from the Board prior to transferring or selling
14 the Respondent Pharmacy's dangerous drugs, devices or hypodermics inventory upon
15 termination of the Pharmacy's business in violation of Title 16, California Code of Regulations
16 section 1708.2.

17 12. Respondent Pharmacist and Respondent Pharmacy both agree to be bound
18 by the Board 's Order below.

19 CONTINGENCY

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

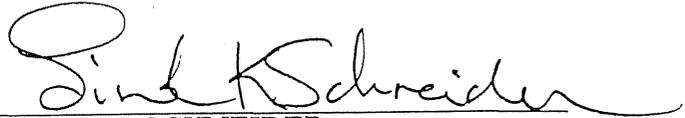
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ENDORSEMENT

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

DATED: 2/13/03

BILL LOCKYER, Attorney General
of the State of California



LINDA K. SCHNEIDER
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:

RONALD ESTLE PARTAIN
9453 Avenida San Timoteo
Cherry Valley, CA 92223

Original Pharmacist License No. RPH 27551

and

RONALD E. PARTAIN PHARMACIST
701 North Highland Springs #4
Beaumont, CA 92223

Original Pharmacy Permit No. PHY 32788

Respondent.

Case No. 2517

OAH No. L-2002100146

DECISION AND ORDER

The attached Stipulated Settlement and 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 February 6, 2004.

It is so ORDERED January 7, 2004.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



JOHN D. JONES
Board President

Exhibit A
Accusation No. 2517

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of the State of California
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10 **BEFORE THE BOARD OF PHARMACY**
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12 In the Matter of the Accusation Against:
13 RONALD ESTLE PARTAIN
9453 Avenida San Timoteo
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15 Original Pharmacist License No. RPH 27551
16 and
17 RONALD E. PARTAIN PHARMACIST
701 North Highland Springs #4
18 Beaumont, CA 92223
19 Original Pharmacy Permit No. PHY 32788
20 Respondents.

Case No. 2517

A C C U S A T I O N

21
22 Complainant alleges:

23 PARTIES

- 24 1. Patricia F. Harris (Complainant) brings this Accusation solely in her
25 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
26 Affairs.
27 2. On or about November 12, 1971, the Board of Pharmacy issued Original
28 Pharmacist License Number RPH 27551 to Ronald Estle Partain (Respondent Partain). The

1 Original Pharmacist License was in full force and effect at all times relevant to the charges
2 brought herein and will expire on October 31, 2003, unless renewed.

3 3. On or about August 6, 1986, the Board of Pharmacy issued Original
4 Pharmacy Permit Number PHY 32788 to Ronald E Partain Pharmacist, Inc. to do business as
5 Ronald E. Partain Pharmacist (Respondent Pharmacy). The Original Pharmacy Permit was in
6 full force and effect at all times relevant to the charges brought herein and will expire on August
7 1, 2003, unless renewed. Ronald E. Partain, RPH 27551, has been the Pharmacist-in-Charge of
8 Ronald E. Partain Pharmacist since August 6, 1986.

9
10 JURISDICTION

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

13 5. Section 4300 of the Code provides that every license issued may be
14 suspended or revoked.

15 6. Section 4301 of the Code states, in pertinent part:

16 "The board shall take action against any holder of a license who is
17 guilty of unprofessional conduct or whose license has been procured by fraud or
18 misrepresentation or issued by mistake. Unprofessional conduct shall include, but
19 is not limited to, any of the following:

20 "... "

21 "(o) Violating or attempting to violate, directly or indirectly, or
22 assisting in or abetting the violation of or conspiring to violate any provision or
23 term of this chapter or of the applicable federal and state laws and regulations
24 governing pharmacy, including regulations established by the board.

25 "... "

26 7. Section 4022 of the Code defines "dangerous drug" as any drug unsafe for
27 self-use and includes drugs that can be lawfully dispensed only by prescription.

28 ///

1 8. Section 4059 of the Code provides that no person shall furnish any
2 dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, or
3 veterinarian.

4 9. Section 4081 of the Code provides that all records of a pharmacy's sale,
5 acquisition, or disposition of dangerous drugs shall be open to inspection by authorized officers
6 of the law at all times during business hours, and shall be preserved for at least three years from
7 the date of making. A current inventory shall be kept by every pharmacy who maintains a stock
8 of dangerous drugs. The owner, officer and partner of any pharmacy shall be jointly responsible,
9 with the pharmacist-in-charge, for maintaining the records and inventory described in this
10 section.¹

11 10. Section 4113 of the Code provides, in pertinent part, that every pharmacy
12 shall designate a pharmacist-in-charge who shall be responsible for the pharmacy's compliance
13 with all state and federal laws and regulations pertaining to the practice of pharmacy.

14 11. Health and Safety Code (H&S Code) section 11150 provides that no
15 person other than a physician, dentist, podiatrist, veterinarian, pharmacist, registered nurse, nurse
16 practitioner, physician assistant, or optometrist shall write or issue a prescription.

17 12. H&S Code section 11170 provides that no person shall prescribe,
18 administer or furnish a controlled substance for himself or herself.

19 13. H&S Code section 11173(a) provides that no person shall obtain or
20 attempt to obtain controlled substances, or procure or attempt to procure the administration of or
21 prescription of controlled substances by fraud, deceit, misrepresentation or subterfuge or by the
22 concealment of a material fact.

23 ///

24 ///

25 ///

26

27

28 1. Section 4081 was amended effective July 1, 2001. The provisions described were the same before and after the amendment.

1 section 1714, subdivision (d) and FCR section 1301.71 by their failure to provide effective
2 controls and procedures to guard against the theft and diversion of controlled substances,
3 including adequately supervising employees having access to narcotics storage areas. The
4 circumstances are as follows:

5 a. During the period of May through December, 2000, Respondent
6 Pharmacy employed a registered technician, "R.E.P.," the son of Respondent Partain, to work in
7 Respondent Pharmacy. While so employed, R.E.P. used his position as a pharmacy technician to
8 steal 4000 dosage units of the generic combination of hydrocodone/acetaminophen known by the
9 trade name "Vicodin." R.E.P. told his father, Respondent Partain, that he had taken the drugs
10 from the pharmacy for his own personal use.

11 b. To effect the drug theft, R.E.P. entered fraudulent prescriptions in
12 the names of fictitious patients into Respondent Pharmacy's computer system, filled the
13 fraudulent prescriptions, and then took the filled prescriptions himself.

14 c. Technician R.E.P. violated Code section 4059 and H&S code
15 sections 1150, 1170, and 11173, subdivision (a) by his conduct described in sub-paragraph (a),
16 above.

17 d. Respondent Partain was not aware of the theft of drugs from
18 Respondent Pharmacy until December, 2000, when he was contacted by a DEA investigator
19 about an allegation of the theft of drugs from Respondent Pharmacy. On December 26, 2000
20 Respondent Partain notified the Board of the theft of drugs from Respondent Pharmacy and
21 subsequently prepared a DEA 106 Theft or Loss Report.

22 e. Respondent Pharmacy had no record of the disposition of the 4000
23 units of generic Vicodin.

24 SECOND CAUSE FOR DISCIPLINE

25 (Violation of Pharmacy Law)

26 20. Respondent Partain has subjected his license and Respondent Pharmacy
27 has subjected its permit to disciplinary action under Code section 4301, subdivision (o), in that
28 Respondents failed to comply with Code section 4081 requiring every pharmacy to keep a record

1 of disposition of dangerous drugs and to keep a current inventory of dangerous drugs. The
2 circumstances are as follows:

3 a. The First Cause for Discipline is incorporated herein by this
4 reference as though fully set forth.

5 b. In December, 2000, and thereafter during the investigation of the
6 drug theft, Respondent Partain, as pharmacist-in-charge of Respondent Pharmacy and
7 Respondent Pharmacy were not able to produce any record of the disposition of the 4000 units of
8 generic Vicodin.

9 c. Respondent Partain, as pharmacist-in-charge of Respondent
10 Pharmacy was unaware of the loss of 4000 units of generic "Vicodin" which demonstrates his
11 failure to keep a current inventory of dangerous drugs at all times.

12 PRAYER

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

15 1. Revoking or suspending Original Pharmacist License Number RPH
16 27551, issued to Ronald Estle Partain;

17 2. Revoking or suspending Original Pharmacy Permit Number PHY 32788,
18 issued to Ronald E Partain Pharmacist;

19 3. Ordering Ronald Estle Partain and Ronald E Partain Pharmacist to pay the
20 Board of Pharmacy the reasonable costs of the investigation and enforcement of this case,
21 pursuant to Business and Professions Code section 125.3;

22 4. Taking such other and further action as deemed necessary and proper.

23
24 DATE: 8/29/02

P. J. Harris
25 PATRICIA F. HARRIS
26 Executive Officer
27 Board of Pharmacy
28 Department of Consumer Affairs
State of California
Complainant

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