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

11 In the Matter of the Accusation Against:

12 **VICKI LEE WEISS**
5171 Longbranch Avenue, #4
13 San Diego, California 92107

14 Respondent.

Case No. 2531

OAH No. L-2003070049

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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16 In the interest of a prompt and speedy resolution of this matter, consistent with the
17 public interest and the responsibility of the Board of Pharmacy of the Department of Consumer
18 Affairs the parties hereby agree to the following Stipulated Surrender of License and Order which
19 will be submitted to the Board for approval and adoption as the final disposition of the
20 Accusation.

21 PARTIES

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

26 2. VICKI LEE WEISS (Respondent) is represented in this proceeding by
27 attorney Burton W. Guetz, whose address is, 6265 Greenwich Drive, Suite 103, San Diego,
28 California 92122.

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BOARD OF PHARMACY
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VICKI LEE WEIS
5171 Longbranch Avenue, #4
San Diego, CA 92107

Respondent.

Case No. 2531

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DECISION AND ORDER

The attached Stipulated Surrender of License 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 October 25, 2003.

It is so ORDERED September 25, 2003.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



JOHN D. JONES
Board President

Exhibit A
Accusation No. 2531

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2 RITA LANE MEDELLIN, State Bar No. 171352
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10 **BEFORE THE**
BOARD OF PHARMACY
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 2531

14 VICKI WEISS
5171 Longbranch Avenue, #4
15 San Diego, CA 92107

A C C U S A T I O N

16 Pharmacist License Number RPH 43075

17 Respondent.
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 June 20, 1990, the Board of Pharmacy issued Pharmacist
25 License Number RPH 43075 to Vicki Weiss ("Respondent"). The Pharmacist License was in
26 full force and effect at all times relevant to the charges brought herein and will expire on July 31,
27 2003, unless renewed.

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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 4300 of the Code states:

5 (a) Every license issued may be suspended or revoked.

6 (b) The board shall discipline the holder of any license issued by the board, whose
7 default has been entered or whose case has been heard by the board and found guilty, by
any of the following methods:

8 (1) Suspending judgment.

9 (2) Placing him or her upon probation.

10 (3) Suspending his or her right to practice for a period not exceeding one
11 year.

12 (4) Revoking his or her license.

13 (5) Taking any other action in relation to disciplining him or her as the
board in its discretion may deem proper.

14 5. Section 4060 of the Code states that no person shall possess any controlled
15 substance, except that furnished to a person upon the prescription of a physician, dentist,
16 podiatrist, or veterinarian.

17 6. Section 4301 of the Code states that the Board shall take action against
18 any holder of a license who is guilty of unprofessional conduct. Unprofessional conduct shall
19 include, but is not limited to, any of the following:

20 . . .

21 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
22 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.

23 . . .

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

28 . . .

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

3 . . .

4 (l) The conviction of a crime substantially related to the qualifications, functions,
5 and duties of a licensee under Chapter 9 (commencing with Section 4000) of the Business
6 and Professions Code. The record of conviction of a violation of Chapter 13
7 (commencing with Section 801) of Title 21 of the United States Code regulating
8 controlled substances or of a violation of the statutes of this state regulating controlled
9 substances or dangerous drugs shall be conclusive evidence of unprofessional conduct.
10 In all other cases, the record of conviction shall be conclusive evidence only of the fact
11 that the conviction occurred. The board may inquire into the circumstances surrounding
12 the commission of the crime, in order to fix the degree of discipline or, in the case of a
13 conviction not involving controlled substances or dangerous drugs, to determine if the
14 conviction is of an offense substantially related to the qualifications, functions, and duties
15 of a licensee under Chapter 9 (commencing with Section 4000) of the Business and
16 Professions Code. A plea or verdict of guilty or a conviction following a plea of nolo
17 contendere is deemed to be a conviction within the meaning of this provision. The board
18 may take action when the time for appeal has elapsed, or the judgment of conviction has
19 been affirmed on appeal or when an order granting probation is made suspending the
20 imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the
21 Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of
22 not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information,
23 or indictment.

24 . . .

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

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

7. Health and Safety Code Section 11357(a) states that except as authorized
by law, every person who possesses any concentrated cannabis shall be punished by
imprisonment in the county jail for a period of not more than one year or by a fine of not more
than five hundred dollars (\$500), or by both such fine and imprisonment, or shall be punished by
imprisonment in the state prison.

8. Section 1770 of the California Code of Regulations states that for the
purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division
1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be
considered 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

1 registrant to perform the functions authorized by his license or registration in a manner consistent
2 with the public health, safety, or welfare.

3 9. Section 125.3 of the Code states that the Board may request the
4 administrative law judge to direct a licentiate found to have committed a violation or violations
5 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
6 enforcement of the case.

7 10. Drugs

8 "Marijuana" is a Schedule I controlled substance and is a hallucinogenic. It is a
9 mind-altering drug and its use is illegal.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Conviction of a Crime Substantially Related to The Practice of Pharmacy)**

12 11. Respondent is subject to disciplinary action for unprofessional conduct
13 under section 4301(1) in that respondent was convicted of a crime substantially related to the
14 functions, duties, and/or qualifications of a Pharmacist. The circumstances are as follows:

15 A. On or about October 18, 2000, in the Superior Court of California,
16 County of San Bernardino, San Bernardino District, in proceedings entitled "People of the
17 State of California v. Vicki Lee Weiss," Case No. TSB104883, respondent pled guilty
18 and was convicted of a violation of Vehicle Code section 23103 (reckless driving), a
19 lesser included offense of Count 1, Vehicle Code section 23152(a) (under the influence of
20 a controlled substance). As part of the plea bargain, Count 2, Health and Safety Code
21 section 11357 (possession of Marijuana) was dismissed.

22 B. On or about October 18, 2000, Respondent was sentenced and
23 placed on probation for three years with standard terms and conditions including, paying
24 a fine of \$1,253.00.

25 C. The facts and circumstances surrounding this offense are that on or
26 about August 11, 2000, Respondent was observed driving her vehicle in an erratic manner
27 and was pulled over by a police officer. Upon contact with Respondent, the police officer
28 noticed that Respondent appeared lethargic, her eyes were red and her head and arms

1 were constantly in motion. While Respondent was providing the police officer with her
2 vehicle registration from her glove compartment, the police officer observed 5 rolled
3 pieces of paper resembling Marijuana joints in the glove compartment. Respondent
4 admitted to the officer that she had Marijuana in her glove compartment and that she had
5 smoked one Marijuana joint 3 hours ago. Respondent failed the field sobriety tests that
6 were given to her by the police officer and she was arrested for a violation of Vehicle
7 Code section 23152(a) (under the influence of a controlled substance). Respondent was
8 transported to the San Bernardino Area Office where a drug recognition expert concluded
9 that she was under the influence of Cannabis. A urine sample was then obtained from
10 Respondent which tested positive for the presence of Cannabis.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Use of a Controlled Substance)**

13 12. Respondent is subject to disciplinary action for unprofessional conduct
14 under section 4301(h) in that Respondent administered to herself a controlled substance in a
15 manner which was dangerous or injurious to herself and the public as set forth in paragraph 11
16 above, which is incorporated herein by reference.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Acts Involving Moral Turpitude)**

19 13. Respondent's license is subject to discipline for unprofessional conduct
20 under section 4301(f) for the commission of acts involving moral turpitude in that on August 11,
21 2000, Respondent admitted to police officers that she possessed Marijuana, an illegal substance,
22 in the glove compartment of her car and that she had smoked a Marijuana joint earlier that
23 evening as set forth in paragraph 11 above, which is realleged and incorporated herein by
24 reference.

25 **FOURTH CAUSE FOR DISCIPLINE**

26 **(Violation of Statutes)**

27 14. Respondent's license is subject to discipline for unprofessional conduct
28 under section 4301(j) for violating statutes of this state regulating controlled substances and

1 dangerous drugs in that on or about August 11, 2000, Respondent possessed and used Marijuana,
2 an illegal, controlled substance, as specified in paragraph 11 above, which is realleged and
3 incorporated herein by reference.

4 **FIFTH CAUSE FOR DISCIPLINE**

5 **(Violation of Statutes)**

6 15. Respondent's license is subject to discipline for unprofessional conduct
7 under section 4301(o) for violating the provisions of Chapter 9 of the Business and Professions
8 Code and applicable state laws and regulations governing pharmacy in that on or about August
9 11, 2000, Respondent possessed and used Marijuana, an illegal, controlled substance, as
10 specified in paragraph 11 above, which is realleged and incorporated herein by reference.

11 **SIXTH CAUSE FOR DISCIPLINE**

12 **(General Unprofessional Conduct)**

13 16. Respondent is subject to disciplinary action for unprofessional conduct
14 under section 4301(p) for actions or conduct that would have warranted denial of a license in that
15 on or about August 11, 2000, Respondent possessed and used Marijuana, an illegal substance and
16 was convicted of a crime related to her use of Marijuana as specified in paragraph 11 above,
17 which is realleged and incorporated herein by reference.

18 **DISCIPLINE CONSIDERATIONS**

19 17. To determine the degree of discipline, if any, to be imposed on
20 Respondent, Complainant alleges that on or about October 18, 2000, in the Superior Court of
21 California, County of San Bernardino, San Bernardino District, in a prior criminal proceeding
22 entitled "People of the State of California v. Vicki Lee Weiss," Case No. TSB104883, respondent
23 pled guilty and was convicted of one count of Vehicle Code section 23103 (reckless driving), a
24 misdemeanor. On or about October 18, 2000, respondent was sentenced and placed on probation
25 for three years and ordered to pay a fine of \$1,253.00. The record of the criminal proceeding is
26 incorporated as if fully set forth herein.

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PRAYER

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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 RPH 43075 issued to Vicki Weiss;
2. Ordering Vicki Weiss 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; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 7/17/02



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

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