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Board of Pharmacy

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

12 In the Matter of the Statement of Issues Against:
13 MICHAEL STUART BRIGGS
2640 Minford Court
14 Lancaster, CA 93536
15
16 Respondent.

Case No.: 2457
STIPULATION, DECISION AND ORDER

17 Applicant/Respondent MICHAEL STUART BRIGGS (hereinafter "respondent"
18 or "Briggs"), and Complainant, Patricia F. Harris, Executive Officer of the California State
19 Board of Pharmacy, Department of Consumer Affairs, State of California (hereinafter "Board"),
20 through her counsel, Deputy Attorney General Maureen McKennan Strumpfer, hereby stipulate
21 that the following matters are true.

22 1. Respondent has been duly served with the Statement of Issues on file and
23 pending in this case, and accompanying documents. A copy of the Statement of Issues is
24 attached hereto as an Exhibit and is incorporated by reference as though fully set forth herein.
25 Respondent is subject to the jurisdiction of the Board in regard to matters alleged in the
26 Statement of Issues.

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1 WAIVER OF RIGHTS

2 2. Respondent is aware of and understands his right to retain legal counsel to
3 advise and to represent him in this matter. To the extent that respondent has not exercised the
4 right to counsel, he has done so knowingly, freely, and voluntarily.

5 3. Respondent agrees to be bound by the terms of this Stipulation, and of the
6 Decision and Order, and freely and voluntarily waives any rights he may have in this proceeding
7 to a hearing on the charges and allegations contained in the Statement of Issues, to
8 reconsideration, to appeal, to judicial review, and to all other rights which he may have under the
9 California Administrative Procedure Act and the laws and regulations of the State of California.

10 BASIS FOR DISCIPLINE

11 4. Respondent admits the truth of the all of the factual allegations contained in
12 Statement of Issues No. 2457 and that, under Business and Professions Code section 4300(c), the
13 Board has the discretion to issue a probationary license to any applicant who is guilty of
14 unprofessional conduct.

15 Respondent further admits that cause exists thereby to impose discipline upon his
16 license pursuant to Business and Professions Code sections 4301(1) and 480(a)(1) [conviction of
17 a crime substantially related to the qualifications, functions, and duties of a pharmacist], 4301(n)
18 [discipline against his pharmacy license by another state], 480(a)(2) [done act involving
19 dishonesty, fraud, or deceit with the intent to substantially benefit himself], and 480(a)(3) [done
20 act which if done by a licentiate would be grounds for suspension or revocation of pharmacy
21 license] as set forth below:

22 Respondent, who was working as a licensed pharmacist in the State of Utah, stole
23 cash from his employer, Smith's Food & Drug. As a result of respondent's misconduct, he plead
24 guilty on or about January 4, 2000, and was criminally convicted of Theft, a Class B
25 misdemeanor, in Carbon County Justice Court, State of Utah, Case No. 431-CR99-458.

26 In addition, on or about March 7, 2000, in the Division of Occupational and
27 Professional Licensing of the Department of Commerce of the State of Utah, disciplined
28 respondent's license to practice as a pharmacist based upon his misconduct and criminal

1 Respondent shall report any of the following occurrences to the Board, in writing,
2 within 72 hours of such occurrence:

3 a. An arrest or issuance of a criminal complaint for violation of any provision of
4 the Pharmacy Law, state and federal food and drug laws, or state and federal controlled
5 substances laws;

6 b. A plea of guilty or nolo contendere in any state or federal criminal proceeding to
7 any criminal complaint, information or indictment;

8 c. A conviction of any crime; and

9 d. 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 the practice of
11 pharmacy or the manufacturing, obtaining, handling or distribution or billing or charging for any
12 drug, device or controlled substance.

13 2. REPORTING TO THE BOARD: Respondent shall report to the Board
14 quarterly. The report shall be made either in person or in writing, as directed. Respondent shall
15 state under penalty of perjury whether there has been compliance with all the terms and
16 conditions of probation. If the final probation report is not made as directed, probation shall be
17 extended automatically until such time as the final report is made and accepted by the Board.

18 3. INTERVIEW WITH THE BOARD: Upon receipt of reasonable notice,
19 respondent shall appear in person for interviews with the Board upon request at various intervals
20 at a location to be determined by the Board. Failure to appear for a scheduled interview without
21 prior notification to Board staff shall be considered a violation of probation.

22 4. COOPERATION WITH BOARD STAFF: Respondent shall cooperate with
23 the Board's inspectional program and in the Board's monitoring and investigation of the
24 respondent's compliance with the terms and conditions of his probation. Failure to comply shall
25 be considered a violation of probation.

26 5. CONTINUING EDUCATION: Respondent shall provide evidence of efforts
27 to maintain skill and knowledge as a pharmacist as directed by the Board.

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1 6. NOTICE TO EMPLOYERS: Respondent shall notify all present and
2 prospective employers of the decision in Case No. 2457 and the terms, conditions and restrictions
3 imposed on respondent by the decision. Within thirty (30) days of the effective date of this
4 decision, and within fifteen (15) days of respondent undertaking new employment, respondent
5 shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in
6 writing acknowledging the employer read the decision in Case No. 2457.

7 If respondent works for or is employed by or through a pharmacy employment
8 service, respondent must notify the direct supervisor, pharmacist-in-charge and/or owner at every
9 pharmacy of the terms and conditions of the decision in Case No. 2457 in advance of the
10 respondent commencing work at each pharmacy.

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

14 7. NO PRECEPTORSHIPS, SUPERVISION OF INTERNS, BEING
15 PHARMACIST-IN-CHARGE, OR SERVING AS CONSULTANT:

16 Respondent shall not supervise any intern pharmacist or perform any of the duties
17 of a preceptor, nor shall respondent be the pharmacist-in-charge of any entity licensed by the
18 Board unless otherwise specified in this order.

19 8. REIMBURSEMENT OF BOARD COSTS: Respondent shall pay to the Board
20 its costs of investigation and prosecution in the amount of \$1,000.00 (One Thousand Dollars).
21 Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with
22 payments to be completed no later than three months prior to the end of the probation term.

23 9. PROBATION MONITORING COSTS: Respondent shall pay the costs
24 associated with probation monitoring as determined by the Board each and every year of
25 probation. Such costs shall be payable to the Board at the end of each year of probation. Failure
26 to pay such costs shall be considered a violation of probation.

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1 10. STATUS OF LICENSE: Respondent shall, at all times while on probation,
2 maintain an active current license with the Board, including any period during which suspension
3 or probation is tolled.

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

7 11. LICENSE SURRENDER WHILE ON PROBATION/SUSPENSION:

8 Following the effective date of this decision, should respondent cease practice due
9 to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
10 respondent may tender his license to the Board for surrender. The Board shall have the
11 discretion whether to grant the request for surrender or take any other action it deems appropriate
12 and reasonable. Upon formal acceptance of the surrender of the license, respondent will no
13 longer be subject to the terms and conditions of probation.

14 Upon acceptance of the surrender, respondent shall relinquish his pocket license
15 to the Board within 10 days of notification by the Board that the surrender is accepted.
16 Respondent may not reapply for any license from the Board for three (3) years from the effective
17 date of the surrender. Respondent shall meet all requirements to the license sought as of the date
18 the application for that license is submitted to the Board.

19 12. NOTIFICATION OF EMPLOYMENT/MAILING ADDRESS CHANGE:

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

24 13. TOLLING OF PROBATION: Respondent shall work at least 40 hours in
25 each calendar month as a pharmacist and at least an average of 80 hours per month in any six
26 consecutive months. Failure to do so will be a violation of probation. If respondent has not
27 complied with this condition during the probationary term, and respondent has presented
28 sufficient documentation of his good faith efforts to comply with this condition, and if no other

1 conditions have been violated, the Board, in its discretion, may grant an extension of
2 respondent's probation period up to one year without further hearing in order to comply with this
3 condition.

4 14. VIOLATION OF PROBATION: If respondent violates probation in any
5 respect, the Board, after giving respondent notice and an opportunity to be heard, may revoke
6 probation and carry out the disciplinary order (revocation) which was stayed. If a petition to
7 revoke probation or an accusation is filed against respondent during probation, the Board shall
8 have continuing jurisdiction, and the period of probation shall be extended, until the petition to
9 revoke probation is heard and decided.

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

15 15. COMPLETION OF PROBATION: Upon successful completion of
16 probation, respondent's license will be fully restored.

17 16. NO OWNERSHIP OF PREMISES: Respondent shall not own, have any legal
18 or beneficial interest in, or serve as a manager, administrator, member, officer, director,
19 associate, or partner of any business, firm, partnership, or corporation currently or hereinafter
20 licensed by the Board. Respondent shall sell or transfer any legal or beneficial interest in any
21 entity licensed by the Board within 90 days following the effective date of this decision and shall
22 immediately thereafter provide written proof thereof to the Board.

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1 AGREEMENT BY RESPONDENT

2 I hereby state that I have read and that I understand this document. I understand
3 the effect this stipulation will have on my license to practice as a pharmacist; and I enter into this
4 stipulation knowingly, voluntarily, freely, and intelligently.

5 I understand that I have certain rights under the California Administrative
6 Procedure Act and the laws and regulations of the State of California in regard to this matter, and
7 I knowingly and intelligently waive those rights.

8 I understand that I have the right to seek legal counsel to advise me in this matter,
9 including the legal effect of this document.

10 I further understand that this stipulation may not be adopted by the California
11 Board of Pharmacy, in which case it is of no effect.

12 I also understand that once I sign this stipulation it is binding, and I shall not be
13 permitted to withdraw from it unless it is rejected by the California Board of Pharmacy.

14
15 DATED: 22 Jan 02


MICHAEL STUART BRIGGS
Applicant/Respondent

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18 ENDORSEMENT

19 The foregoing Stipulation is respectfully submitted for consideration by the
20 California Board of Pharmacy.

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22 DATED: 30 Jan 02

BILL LOCKYER, Attorney General
Of the State of California


MAUREEN MCKENNAN STRUMPFER
Deputy Attorney General

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27 Attorneys for Complainant

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ORDER

The above Stipulation has been adopted and shall become the Decision of the Board of Pharmacy of the State of California effective March 29, 2002.

IT IS SO ORDERED this 29th day of March, 2002.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By: 
STEVE LITSEY
Board President

Exh. A: Statement of Issues

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ORIGINAL

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 6 E-mail: Maureen.Strumpfer.@doj.ca.gov

7 Attorneys for Complainant

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

11 In the Matter of the Statement of Issues Against:	Case No. 2457
12 MICHAEL STUART BRIGGS	
13 745 S. State Street, 20-3	
14 Roosevelt, Utah 84066	STATEMENT OF ISSUES
15 Respondent.	

16 Complainant alleges:

17 PARTIES

18 1. Patricia Harris (Complainant) brings this statement of issues solely in her
19 official capacity as the Executive Officer of the Board of Pharmacy.

20 APPLICATION INFORMATION

21 2. On or about July 12, 2000, the California State Board of Pharmacy
 22 ("Board") received an application for pharmacist licensure examination from Michael Stuart
 23 Briggs (Respondent). In his application, respondent indicated that he had been convicted of or
 24 pled no contest to a crime; and that disciplinary action had been taken against his pharmacist
 25 license in another state. The application was certified as to its truth and accuracy under penalty
 26 of perjury by applicant/respondent on July 5, 2000. The Board denied respondent's application
 27 on or about February 14, 2001.

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1 RELEVANT STATUTORY PROVISIONS

2 3. Under Business and Professions Code ("Code") section 4300,
3 subdivision (c), the Board may refuse a license to any applicant guilty of unprofessional
4 conduct.¹

5 4. Unprofessional conduct, includes, but is not limited to the following:

6 A. The conviction of a crime substantially related to the qualifications, functions,
7 and duties of a licensee pursuant to Section 4301, subdivision (l) of the Code.

8 B. The revocation, suspension, or other discipline by another state of a license to
9 practice pharmacy, pursuant to Section 4301, subdivision (n) of the Code.

10 C. 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 or
12 otherwise, and whether the act is a felony or misdemeanor or not, pursuant to Section 4301,
13 subdivision (f) of the Code.

14 5. Section 480 (a)(1) of the Code provides, in pertinent part, that a board may
15 deny a license on the grounds that the applicant has been convicted of a crime.

16 6. Section 480(a)(2) of the Code provides, in pertinent part, that the
17 Board may deny a license on the grounds that the applicant has done any act involving
18 dishonesty, fraud, or deceit with the intent to substantially benefit himself or another, or
19 substantially injure another.

20 7. Section 480(a)(3) of the Code provides, in pertinent part, that the Board
21 may deny a license on the grounds that the applicant has done any act which if done by a
22 licentiate would be grounds for suspension or revocation of a license.

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28 1. Unless otherwise specified, all further references are to the Business and Professions Code.

1 on three (3) years probation with terms and conditions. Respondent agreed to discipline of his
2 license and admitted that he committed theft of cash from his employer, Smith's Food and Drug;
3 and that he was criminally convicted of said theft.

4 PRAYER

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

- 7 1. Denying the application of Michael Stuart Briggs for pharmacist licensure
8 examination in the State of California; and
9 2. Taking such other and further action as deemed necessary and proper.

10 DATED: 12/20/01.

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12 _____
13 PATRICIA HARRIS
14 Executive Officer
15 Board of Pharmacy
16 State of California
17 Complainant

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26 statement of issues.wpt 9/9/01
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