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6 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

12 RYAN RUSSELL  
2450 Aztec Ave.  
Ventura, CA 93001

13 Original Pharmacist License No. RPH 49238

14 Respondent.

Case No. 2596

OAH No. L-2003100163

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15  
16 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
17 above-entitled proceedings that the following matters are true:

18  
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 Christina M. Thomas, Deputy  
23 Attorney General.

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

26 3. On or about February 4, 1997, the Board of Pharmacy issued Original  
27 Pharmacist License No. RPH 49238 to Ryan Russell (Respondent). The License was in full  
28 force and effect at all times relevant to the charges brought in Accusation No. 2596 and will

1 expire on December 31, 2004, unless renewed.

2 JURISDICTION

3 4. Accusation No. 2596 was filed before the Board of Pharmacy (Board),  
4 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation  
5 and all other statutorily required documents were properly served on Respondent on July 10,  
6 2003. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of  
7 Accusation No. 2596 is attached as exhibit A and incorporated herein by reference.

8 ADVISEMENT AND WAIVERS

9 5. Respondent has carefully read, and understands the charges and allegations  
10 in Accusation No. 2596. Respondent has also carefully read, and understands the effects of this  
11 Stipulated Settlement and Disciplinary Order.

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

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

21 CULPABILITY

22 8. Respondent admits the truth of each and every charge and allegation in  
23 Accusation No. 2596.

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

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- 1 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to
- 2 any criminal complaint, information or indictment
- 3 • a conviction of any crime
- 4 • discipline, citation, or other administrative action filed by any state and federal
- 5 agency which involves Respondent's license or which is related to the practice
- 6 of pharmacy or the manufacturing, obtaining, handling or distribution or billing
- 7 or charging for any drug, device or controlled substance.

8           2.       **Reporting to the Board.** Respondent shall report to the Board  
9 quarterly. The report shall be made either in person or in writing, as directed. Respondent  
10 shall state under penalty of perjury whether there has been compliance with all the terms and  
11 conditions of probation. If the final probation report **is not** made as directed, probation shall  
12 be extended automatically until such time as the final report is made and accepted by the  
13 Board.

14           3.       **Interview with the Board.** Upon receipt of reasonable notice,  
15 Respondent shall appear in person for interviews with the Board upon request at various  
16 intervals at a location to be determined by the Board. Failure to appear for a scheduled  
17 interview without prior notification to Board staff shall be considered a violation of probation.

18           4.       **Cooperation with Board Staff.** Respondent shall cooperate with the  
19 Board's inspectional program and in the Board's monitoring and investigation of Respondent's  
20 compliance with the terms and conditions of his probation. Failure to comply shall be  
21 considered a violation of probation.

22           5.       **Continuing Education.** Respondent shall provide evidence of efforts  
23 to maintain skill and knowledge as a pharmacist as directed by the Board.

24           6.       **Notice to Employers.** Respondent shall notify all present and  
25 prospective employers of the decision in case number 2596 and the terms, conditions and  
26 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of  
27 this decision, and within 15 days of Respondent undertaking new employment, Respondent  
28 shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in

1 writing acknowledging the employer has read the decision in case number 2596.

2 If Respondent works for or is employed by or through a pharmacy employment  
3 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at  
4 every pharmacy of the and terms conditions of the decision in case number 2596 in advance of  
5 the Respondent commencing work at each pharmacy.

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

9 **7. No Preceptorships, Supervision of Interns, Being Pharmacist-in-**  
10 **Charge (PIC), or Serving as a Consultant.** Respondent shall not supervise any intern  
11 pharmacist or perform any of the duties of a preceptor, nor shall Respondent be the  
12 pharmacist-in-charge of any entity licensed by the Board unless otherwise specified in this  
13 order.

14 **8. Reimbursement of Board Costs.** Respondent shall pay to the Board  
15 its costs of investigation and prosecution in the amount of \$5,000.00. Respondent shall make  
16 quarterly payments over the first three years of probation, until paid in full.

17 The filing of bankruptcy by Respondent shall not relieve Respondent of his  
18 responsibility to reimburse the Board its costs of investigation and prosecution.

19 **9. Status of License.** Respondent shall, at all times while on probation,  
20 maintain an active current license with the Board, including any period during which  
21 suspension or probation is tolled.

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

25 **10. Notification of Employment/Mailing Address Change.** Respondent  
26 shall notify the Board in writing within 10 days of any change of employment. Said  
27 notification shall include the reasons for leaving and/or the address of the new employer,  
28 supervisor or owner and work schedule if known. Respondent shall notify the Board in

1 writing within 10 days of a change in name, mailing address or phone number.

2           11.    **Violation of Probation.** If Respondent violates probation in any  
3 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke  
4 probation and carry out the disciplinary order which was stayed. If a petition to revoke  
5 probation or an accusation is filed against Respondent during probation, the Board shall have  
6 continuing jurisdiction and the period of probation shall be extended, until the petition to  
7 revoke probation or accusation is heard and decided.

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

13           12.    **Completion of Probation.** Upon successful completion of probation,  
14 Respondent's license will be fully restored.

15           13.    **Rehabilitation Program - Pharmacists Recovery Program (PRP).**  
16 Within 30 days of the effective date of this decision, Respondent shall contact the Pharmacists  
17 Recovery Program for evaluation and shall successfully participate in and complete the  
18 treatment contract and any subsequent addendums as recommended and provided by the PRP  
19 and as approved by the Board. The costs for PRP participation shall be borne by the  
20 Respondent.

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

1 probation for any violation of this term.

2           14.     **Random Drug Screening.** Respondent, at his own expense, shall  
3 participate in random testing, including but not limited to biological fluid testing (urine,  
4 blood), breathalyzer, hair follicle testing, or a drug screening program approved by the Board.  
5 The length of time shall be for the entire probation period and the frequency of testing will be  
6 determined by the Board. At all times Respondent shall fully cooperate with the Board, and  
7 shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics,  
8 hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as  
9 directed shall constitute a violation of probation. Any confirmed positive drug test shall result  
10 in the immediate suspension of practice by Respondent. Respondent may not resume the  
11 practice of pharmacy until notified by the Board in writing.

12           15.     **Abstain from Drugs and Alcohol Use.** Respondent shall completely  
13 abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their  
14 associated paraphernalia except when the drugs are lawfully prescribed by a licensed  
15 practitioner as part of a documented medical treatment. Upon request of the Board,  
16 Respondent shall provide documentation from the licensed practitioner that the prescription  
17 was legitimately issued and is a necessary part of the treatment of the Respondent.

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

24           17.     **Tolling of Suspension.** If Respondent leaves California to  
25 reside or practice outside this state, for any period exceeding 10 days (including vacation),  
26 Respondent must notify the Board in writing of the dates of departure and return. Periods of  
27 residency or practice outside the state - or any absence exceeding a period of 10 days shall not  
28 apply to the reduction of the suspension period.

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Respondent shall not practice pharmacy upon returning to this state until notified by the Board that the period of suspension has been completed.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Original 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: 3/15/04

  
RYAN 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: 3/15/04

BILL LOCKYER, Attorney General  
of the State of California

  
CHRISTINA M. THOMAS  
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:

RYAN RUSSELL  
2450 Aztec Ave.  
Ventura, CA 93001

Original Pharmacist License No. RPH 49238

Respondent.

Case No. 2596

OAH No. L-2003100163

**DECISION AND ORDER**

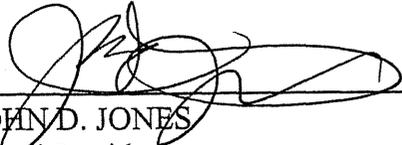
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on May 22, 2004.

It is so ORDERED April 22, 2004.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

  
\_\_\_\_\_  
JOHN D. JONES  
Board President

**Exhibit A**  
**Accusation No. 2596**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 CHRISTINA M. THOMAS, State Bar No. 171168  
Deputy Attorney General  
3 California Department of Justice  
300 So. Spring Street, Suite 1702  
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7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2596

12 RYAN W. RUSSELL  
645 E. Sunset Drive North  
13 Redlands, CA 92373

**A C C U S A T I O N**

14 Original Pharmacist License No. RPH 49238

15 Respondent.

16  
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 February 4, 1997, the Board of Pharmacy issued Original  
23 Pharmacist License Number RPH 49238 to Ryan W. Russell (Respondent). The Original  
24 Pharmacist License was in full force and effect at all times relevant to the charges brought herein  
25 and will expire on December 31, 2004, unless renewed.

26 JURISDICTION

27 3. This Accusation is brought before the Board of Pharmacy (Board),  
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2           4.     Business and Professions Code section 4300 permits the Board to take  
3 disciplinary action to suspend or revoke a license issued by the Board.

4           5.     Business and Professions Code section 4301 states, in pertinent part:

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           . . . .

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 or  
12 otherwise, and whether the act is a felony or misdemeanor or not.

13           . . . .

14           (h) The administering to oneself, of any controlled substance, or the use of any  
15 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or  
16 injurious to oneself, to a person holding a license under this chapter, or to any other person or to  
17 the public, or to the extent that the use impairs the ability of the person to conduct with safety to  
18 the public the practice authorized by the license.

19           . . . .

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

22           . . . .

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

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

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1           6.       Business and Professions Code section 4059 states, in pertinent part, that a  
2 person may not furnish any dangerous drug except upon the prescription of a physician, dentist,  
3 podiatrist, optometrist, or veterinarian.

4           7.       Business and Professions Code section 4060 states:

5           "No person shall possess any controlled substance, except that furnished to a  
6 person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished  
7 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse  
8 practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1. This  
9 section shall not apply to the possession of any controlled substance by a manufacturer,  
10 wholesaler, pharmacy, physician, podiatrist, dentist, veterinarian, certified nurse-midwife, nurse  
11 practitioner, or physician assistant, when in stock in containers correctly labeled with the name  
12 and address of the supplier or producer."

13          8.       Business and Professions Code section 4327, subdivision (a), states:

14          "Any person who, while on duty, sells, dispenses or compounds any drug while  
15 under the influence of any dangerous drug or alcoholic beverage shall be guilty of a  
16 misdemeanor."

17          9.       Health and Safety Code section 11170 states, in pertinent part: "no person  
18 shall prescribe, administer, or furnish a controlled substance for himself."

19          10.       Health and Safety Code section 11173, subdivision (a), states, in pertinent  
20 part: "no person shall obtain or attempt to obtain controlled substances, or procure or attempt to  
21 procure the administration of or prescription for controlled substances, (1) by fraud, deceit,  
22 misrepresentation, or subterfuge; or (2) by the concealment of a material fact."

23          11.       Business and Professions Code section 118, subdivision (b), provides that  
24 the suspension of a license shall not deprive the Board of jurisdiction to proceed with a  
25 disciplinary action during the period within which the license may be renewed, restored, reissued  
26 or reinstated.

27          12.       Business and Professions Code section 125.3 provides, in pertinent part,  
28 that the Board may request the administrative law judge to direct a licentiate found to have

1 committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable  
2 costs of the investigation and enforcement of the case.

3 13. CONTROLLED SUBSTANCE

4 A. "Dilaudid", the brand name for hydromorphone, an opium derivative, is a  
5 Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(k)  
6 and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

7 B. "Morphine" is a Schedule II controlled substance pursuant to Health and  
8 Safety Code Section 11055(b)(1)(M) and is categorized as a dangerous drug pursuant to  
9 Business and Professions Code section 4022.

10 FIRST CAUSE FOR DISCIPLINE

11 (Obtain, Furnish a Controlled Substance to Oneself)

12 14. Respondent is subject to disciplinary action under Business and  
13 Professions Code sections 4300 and 4301, subdivisions (f), (j), (o) and (p) on the grounds of  
14 unprofessional conduct for violating Business and Professions Code section 4059 and Health and  
15 Safety Code section 11173(a), in that Respondent obtained or furnished a controlled substance  
16 for his own personal use.

17 a. On or about October 10, 2001, while performing his duties as a pharmacist  
18 at Sun Plus Home Pharmacy Services, the lead technician observed Respondent place a vial of  
19 hydromorphone 2mg/ml 20 ml in his pocket. When confronted by the pharmacy director,  
20 Respondent denied taking the vial. As he was escorted out of the pharmacy, Respondent  
21 admitted taking the controlled substance.

22 b. Respondent, while a pharmacist at the Santa Barbara Cottage Hospital,  
23 admitted that on or about September 12, 2002, he took three Dilaudid ampoules from the IV  
24 room for his own use. Respondent also admitted to the investigator for Board that he took  
25 overfills of Morphine vials from the Sharps containers.

26 SECOND CAUSE FOR DISCIPLINE

27 (Prescribing, Administering Controlled Substances to Oneself)

28 15. Respondent is subject to disciplinary action under Business and

1 Professions Code sections 4300 and 4301, subdivisions (h), (j), (o) and (p), on the grounds of  
2 unprofessional conduct for violating Health and Safety Code section 11170, in that Respondent  
3 prescribed, administered or furnished controlled substances to himself, as more fully set forth in  
4 paragraph 14, above.

5 THIRD CAUSE FOR DISCIPLINE

6 (Possession of Controlled Substances)

7 16. Respondent is subject to disciplinary action under Business and  
8 Professions Code sections 4300 and 4301, subdivision (h), (j) and (o) on the grounds of  
9 unprofessional conduct for violating Business and Professions Code section 4059, in  
10 conjunction with Health and Safety Code section 11170. The circumstances are as follows:

11 a. On or about September 12, 2002, Respondent provided a urine sample,  
12 which was collected at Santa Barbara Cottage Hospital. The collection was a split specimen.  
13 The initial drug screen, performed on September 12, 2002, at 2:23 p.m., demonstrated positive  
14 for morphine. The second specimen, done on September 12, 2002, at 3:30 p.m., at the Goleta  
15 Valley Occupational Health Center, was negative. The third specimen, done on September 12,  
16 2002, at 4:45 p.m., at the Goleta Valley Occupational Health Center, was positive for methadone.

17 FOURTH CAUSE FOR DISCIPLINE

18 (Unprofessional Conduct)

19 17. Respondent is subject to disciplinary action under section 2761,  
20 subdivision (a)(1) of the Code, on the grounds of unprofessional conduct in that, while on duty as  
21 a pharmacist at Santa Barbara Cottage Hospital, he erroneously entered a verbal order on a  
22 patient's medical doctor order sheet. The circumstances are as follows:

23 a. On or about August 30, 2002, there were two patients with the same last  
24 name, Luciano G. and Jose G. at Santa Barbara Cottage Hospital. Respondent took down a  
25 verbal order for Abelcet over the phone and entered it in patient Jose G.'s medical doctor order  
26 sheet. The Abelcet medication was for Luciano G. The patient, Jose G., suffered a mild allergic  
27 reaction to the Abelcet.

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1 PRAYER

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

4 1. Revoking or suspending Original Pharmacist License Number RPH  
5 49238, issued to Ryan Russell;

6 2. Ordering Ryan Russell to pay the Board of Pharmacy the reasonable costs  
7 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
8 section 125.3;

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

10 DATED: 7/3/03

11  
12 *P. F. Harris*  
13 \_\_\_\_\_  
14 PATRICIA F. HARRIS  
15 Executive Officer  
16 Board of Pharmacy  
17 Department of Consumer Affairs  
18 State of California  
19 Complainant  
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