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of the State of California
JANA L. TUTON, State Bar No. 78206
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Attorneys for Complainant

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: PET MED EXPRESS INC. 1441 SW 29th Avenue Pompano Beach, FL 33069 Non-Residency Pharmacy Permit No. NRP 341 Respondent.	Case No. 2693 **STIPULATED SETTLEMENT**

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

PARTIES

1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of Pharmacy. She brought this action solely in her official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Jana L. Tuton, Deputy Attorney General.

2. Respondent PET MED EXPRESS INC. (Respondent) is represented in this proceeding by attorney Alison Berges, whose address is 1441 S.W. 29th Avenue, Pompano Beach, FL 33069.

3. On or about November 29, 1999, the Board of Pharmacy issued Non-Residency Pharmacy Permit No. NRP 341 to PET MED EXPRESS INC. (Respondent).

The Permit was in full force and effect at all times relevant to the charges brought in Accusation No. 2693 and will expire on November 1, 2005, unless renewed.

JURISDICTION

4. Accusation No. 2693 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 20, 2004. Respondent timely filed its Notice of Defense contesting the Accusation. A copy of Accusation No. 2693 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2693. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement.

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

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

CULPABILITY

8. Respondent does not contest the allegations in Accusation No. 2693.

CIRCUMSTANCES IN MITIGATION

9. Respondent PET MED EXPRESS INC. has never been the subject of any disciplinary action in California. The Florida Board of Pharmacy, which originally imposed probation on Respondent, granted Respondent's petition to terminate probation effective March 11, 2004, thus reducing Respondent's probation from three years to two years.

RESERVATION

10. The stipulations made by Respondent in this stipulated settlement are only for the purposes of this proceeding, or any other proceedings in which the Board of Pharmacy or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

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

12. The parties understand and agree that facsimile copies of this Stipulated Settlement, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Non-Residency Pharmacy Permit No. NRP 341 issued to Respondent PET MED EXPRESS INC. is reprimanded. Respondent shall pay $1,250.00 to the Board within 60 days of the effective date of this order.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and have fully discussed it with my attorney, Alison Berges. I understand the stipulation and the effect it will have on my

///

Non-Residency Pharmacy Permit. I enter into this Stipulated Settlement voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 05/16/2005.

CEO

PET MED EXPRESS INC.
Respondent

I have read and fully discussed with Respondent PET MED EXPRESS INC. the terms and conditions and other matters contained in the above Stipulated Settlement. I approve its form and content.

DATED: 5-16-05.

ALISON BERGES
Attorney for Respondent

ENDORSEMENT

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

DATED: May 20, 2005.

BILL LOCKYER, Attorney General
of the State of California

JANA L. TUTON
Deputy Attorney General

Attorneys for Complainant

JLT:djd
rev. 5/13/05

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: PET MED EXPRESS INC. 1441 SW 29th Avenue Pompano Beach, FL 33069 Non-Residency Pharmacy Permit No. NRP 341 Respondent.	Case No. 2693

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 28, 2005.

It is so ORDERED June 28, 2005.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

STANLEY W. GOLDENBERG
Board President

EXHIBIT A

ACCUSATION NO. 2693

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Attorneys for Complainant

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	Case No. 2693
PET MED EXPRESS INC. 1441 SW 29th Avenue Pompano Beach, FL 33069 Non-Residency Pharmacy Permit No. NRP 341 Respondent.	**ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about November 29, 1999, the Board of Pharmacy issued Non-Residency Pharmacy Permit Number NRP 341 to PET MED EXPRESS INC. (Respondent). The Non-Residency Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein and will expire on November 1, 2004, unless renewed.

JURISDICTION

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

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

4. Section 4301 of the Code states:

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

". . . . . .

"(n) The revocation, suspension, or other discipline by another state of a license to practice pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter."

E. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CAUSE FOR DISCIPLINE

(Out of State Discipline)

F. Respondent is subject to disciplinary action under section 4301(n) in that respondent's pharmacy licenses have been disciplined in other states. The circumstances are as follows:

1. On or about March 7, 2002 the Florida Board of Pharmacy issued a stipulated order placing respondent's pharmacy license on probation for three years subject to terms and conditions.

2. On or about May 9, 2002, the Louisiana Board of Pharmacy issued a stipulated order placing respondent's pharmacy license on probation for five years subject to terms and conditions.

3. On or about June 12, 2002, the Ohio Board of Pharmacy issued a stipulated order placing respondent's pharmacy license on probation for five years subject to terms and conditions.

4. On or about February 2, 2001, the Missouri Board of Pharmacy issued a stipulated order placing respondent's pharmacy license on probation for four years subject to terms and conditions.

PRAYER

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:

A. Revoking or suspending Non-Residency Pharmacy Permit Number NRP 341, issued to PET MED EXPRESS INC.;

B. Ordering PET MED EXPRESS INC. 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;

C. Taking such other and further action as deemed necessary and proper.

DATED: 1/12/04

P. J. Harris

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

JLT:djd
11/14/03