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of the State of California  
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6 Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

11 JERE KEITH SMITH  
12 300 E. Sycamore Dr.  
Hanford, CA 93230  
13  
14 Pharmacist License No. RPH 28912

Respondent.

Case No. 2717

OAH No. N2004030105

**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 PARTIES

19 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of  
20 Pharmacy. She brought this action solely in her official capacity and is represented in this matter  
21 by Bill Lockyer, Attorney General of the State of California, by Michael J. Fielding, Deputy  
22 Attorney General.

23 2. Respondent Jere Keith Smith is represented in this proceeding by attorney  
24 Steven D. Barnes, whose address is 707 North Douty Street, Hanford, CA 93230-3914.

25 3. On or about July 17, 1974, the Board of Pharmacy issued Pharmacist  
26 License No. RPH 28912 to Jere Keith Smith (Respondent). The License was in full force and  
27 effect at all times relevant to the charges brought in Accusation No. 2717 and will expire on July  
28 31, 2005, unless renewed.





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

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

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

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

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

27                   6.     **Notice to Employers.** Respondent shall notify all present and  
28 prospective employers of the decision in case number 2717 and the terms, conditions and

1 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of  
2 this decision, and within 15 days of Respondent undertaking new employment, Respondent  
3 shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in  
4 writing acknowledging the employer has read the decision in case number 2717.

5           If Respondent works for or is employed by or through a pharmacy employment  
6 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at  
7 every pharmacy of the and terms conditions of the decision in case number 2717 in advance of  
8 the Respondent commencing work at each pharmacy.

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

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

17           **8. Reimbursement of Board Costs.** Respondent shall pay to the Board  
18 its costs of investigation and prosecution in the amount of \$3,500. Respondent shall make  
19 said payments as follows: quarterly payments of \$350, beginning with the effective date of this  
20 decision.

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

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.  
26 Failure 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  
3 suspension or probation is tolled.

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

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

14                   Upon acceptance of the surrender, Respondent shall relinquish his pocket  
15 license 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 years from the effective  
17 date of the surrender. Respondent shall meet all requirements applicable to the license sought  
18 as of the date the application for that license is submitted to the Board.

19                   12.     **Notification of Employment/Mailing Address Change.** Respondent  
20 shall notify the Board in writing within 10 days of any change of employment. Said  
21 notification shall include the reasons for leaving and/or the address of the new employer,  
22 supervisor or owner and work schedule if known. Respondent shall notify the Board in  
23 writing within 10 days of a change in name, mailing address or phone number.

24                   13.     **Tolling of Probation.** Should Respondent, regardless of residency, for  
25 any reason cease practicing pharmacy for a minimum of 40 hours per calendar month in  
26 California, Respondent must notify the Board in writing within 10 days of cessation of the  
27 practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time  
28 shall not apply to the reduction of the probation period. It is a violation of probation for

1 Respondent's probation to remain tolled pursuant to the provisions of this condition for a  
2 period exceeding three years.

3 "Cessation of practice" means any period of time exceeding 30  
4 days in which Respondent is not engaged in the practice of  
5 pharmacy as defined in Section 4052 of the Business and  
6 Professions Code.

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

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

17 **15. Completion of Probation.** Upon successful completion of probation,  
18 Respondent's license will be fully restored.

19 **16. Medical Evaluation.** Within 30 days of the effective date of this  
20 decision, and on a periodic basis thereafter as may be required by the Board, Respondent shall  
21 undergo a medical evaluation, at Respondent's own expense, by a Board-appointed or Board-  
22 approved physician who shall furnish a medical report to the Board.

23 If Respondent is required by the Board to undergo medical treatment,  
24 Respondent shall, within 30 days of written notice from the Board, submit to the Board for its  
25 prior approval, the name and qualifications of a physician of Respondent's choice. Upon  
26 Board approval of the treating physician, Respondent shall undergo and continue medical  
27 treatment, with that physician and at Respondent's own expense, until further notice from the  
28 Board. Respondent shall have the treating physician submit written quarterly reports to the

1 Board. Should Respondent, for any reason, cease treatment with the approved physician,  
2 Respondent shall notify the Board immediately and, within 30 days of ceasing treatment,  
3 submit the name of a replacement physician of Respondent's choice to the Board for its prior  
4 approval.

5           **17. Rehabilitation Program - Pharmacists Recovery Program (PRP).**

6 Within 30 days of the effective date of this decision, Respondent shall contact the Pharmacists  
7 Recovery Program for evaluation and shall successfully participate in and complete the  
8 treatment contract and any subsequent addendums as recommended and provided by the PRP  
9 and as approved by the Board. The costs for PRP participation shall be borne by the  
10 Respondent.

11           If Respondent is currently enrolled in the PRP, said participation is now  
12 mandatory and is no longer considered a self-referral under Business and Professions Code  
13 section 4363, as of the effective date of this decision. Respondent shall successfully  
14 participate in and complete his current contract and any subsequent addendums with the PRP.  
15 Probation shall be automatically extended until Respondent successfully completes his  
16 treatment contract. Any person terminated from the program shall be automatically suspended  
17 upon notice by the Board and may not resume the practice of pharmacy until notified by the  
18 Board in writing. The Board shall retain jurisdiction to institute action to terminate probation  
19 for any violation of this term.

20           Upon Respondent's release from the PRP based on a finding that he has no  
21 chemical or drug dependency, the probation period of five years specified in this order may be  
22 reduced to three years.

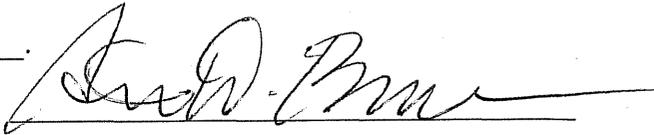
23           **18. Random Drug Screening.** Respondent, at his own expense, shall  
24 participate in random testing, including but not limited to biological fluid testing (urine,  
25 blood), breathalyzer, hair follicle testing, or a drug screening program approved by the Board.  
26 The length of time shall be for the entire probation period and the frequency of testing will be  
27 determined by the Board. At all times Respondent shall fully cooperate with the Board, and  
28 shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics,



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I have read and fully discussed with Respondent Jere Keith Smith the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 6-23-04



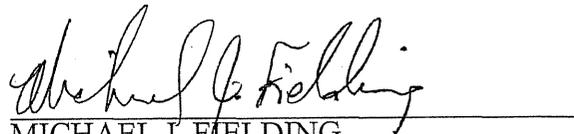
STEVEN D. BARNES  
Attorney for Respondent

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: 7/8/04

BILL LOCKYER, Attorney General  
of the State of California



MICHAEL J. FIELDING  
Deputy Attorney General

Attorneys for Complainant

DOJ Docket Number: SA2003104797

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

In the Matter of the Accusation Against:

Case No. 2717

**Jere Keith Smith**  
300 E Sycamore Dr  
Hanford, CA 93230

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

Pharmacist License No. RPH 28912

Respondent.

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**DECISION AND ORDER**

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

This decision shall become effective on October 10, 2004.

It is so ORDERED on September 10, 2004.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



STANLEY W. GOLDENBERG  
Board President

**Exhibit A**  
**Accusation No. 2717**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 MICHAEL J. FIELDING, State Bar No. 068612  
Deputy Attorney General  
3 California Department of Justice  
1300 I Street, Suite 125  
4 P.O. Box 944255  
Sacramento, CA 94244-2550  
5 Telephone: (916) 445-2271  
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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:

Case No. 2717

12 JERE KEITH SMITH  
300 E. Sycamore Dr.  
13 Hanford, CA 93230

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

14 Pharmacist License No. RPH 28912

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 July 17, 1974, the Board of Pharmacy issued Pharmacist  
23 License Number RPH 28912 to Jere Keith Smith (Respondent). The Pharmacist License was in  
24 full force and effect at all times relevant to the charges brought herein and will expire on July 31,  
25 2005, 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. Section 4301 of the Code states:

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

7 "(a) Gross immorality.

8 \* \* \* \*

9 "(c) Gross negligence.

10 \* \* \* \*

11 "(f) The commission of any act involving moral turpitude, dishonesty, fraud,  
12 deceit, or corruption, whether the act is committed in the course of relations as a licensee or  
13 otherwise, and whether the act is a felony or misdemeanor or not.

14 \* \* \* \*

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

20 \* \* \* \*

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

23 \* \* \* \*

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

28 5. Section 4327 of the Code provides that any person who, while on duty,



1 subdivision (f), in that on multiple occasions between May 31, 2002 and April 3, 2003, while  
2 employed and on duty as a pharmacist, Respondent diverted and stole from his employer  
3 approximately 1,900 tablets of acetaminophen with codeine, a schedule III controlled substance  
4 and a narcotic drug.

5 SECOND CAUSE FOR DISCIPLINE

6 (Unprofessional Conduct)

7 14. Respondent is subject to disciplinary action under section 4301,  
8 subdivision (j), in that on multiple occasions between May 31, 2002 and April 3, 2003,  
9 Respondent was in possession of and furnished to himself quantities of acetaminophen with  
10 codeine, a schedule III controlled substance, without a prescription for those controlled  
11 substances, in violation of Health and Safety Code sections 11170 and 11350, subdivision (a),  
12 and Business and Professions Code section 4060.

13 THIRD CAUSE FOR DISCIPLINE

14 (Unprofessional Conduct)

15 15. Respondent is subject to disciplinary action under section 4301,  
16 subdivision (h), in that on multiple occasions between May 31, 2002 and April 3, 2003,  
17 Respondent administered to himself acetaminophen with codeine, a schedule III controlled  
18 substance, in a manner and to an extent that the use impaired his ability to conduct with safety to  
19 the public the practice authorized by his pharmacist license.

20 FOURTH CAUSE FOR DISCIPLINE

21 (Unprofessional Conduct)

22 16. Respondent is subject to disciplinary action under section 4301,  
23 subdivision (o), in that on multiple occasions between May 31, 2002 and April 3, 2003, while  
24 employed and on duty as a pharmacist, Respondent dispensed or compounded drugs while under  
25 the influence of a dangerous drug (codeine) in violation of section 4327.

26 FIFTH CAUSE FOR DISCIPLINE

27 (Unprofessional Conduct)

28 17. Respondent is subject to disciplinary action under section 4301,

1 subdivisions (a), (c), and (j), and under Health and Safety Code section 11209, subdivision (a),  
2 and CCR section 1714, subdivision (d), in that on multiple occasions between May 31, 2002, and  
3 April 3, 2003, while employed and on duty as a pharmacist, Respondent mixed Schedule III  
4 controlled substances and other drugs of unknown quality and cleanliness with the inventory of  
5 drugs maintained by his employer in an effort to hide his unlawful diversion of drugs from his  
6 employer.

7 SIXTH CAUSE FOR DISCIPLINE

8 (Unprofessional Conduct)

9 18. Respondent is subject to disciplinary action under section 4301,  
10 subdivision (f), in that on multiple occasions between May 31, 2002 and April 3, 2003, while  
11 employed and on duty as a pharmacist, Respondent diverted and stole from his employer  
12 quantities of Esgic, Imitrex, and Ibuprofen, all dangerous drugs.

13 SEVENTH CAUSE FOR DISCIPLINE

14 (Unprofessional Conduct)

15 19. Respondent is subject to disciplinary action under section 4301,  
16 subdivision (j), in that on multiple occasions between May 31, 2002 and April 3, 2003, while  
17 employed and on duty as a pharmacist, Respondent furnished to himself quantities of Esgic,  
18 Imitrex, and Ibuprofen, all dangerous drugs, without a prescription for those drugs, in violation of  
19 section 4059.

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24 PRAYER

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

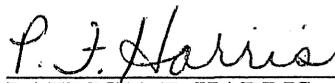
27 A. Revoking or suspending Pharmacist License Number RPH 28912, issued  
28 to Jere Keith Smith;

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B. Ordering Jere Keith Smith 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: 2/2/04

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

-SA2003104797