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2 MARC D. GREENBAUM, State Bar No. 138213
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300 So. Spring Street, Suite 1702
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6 Attorneys for Complainant

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. 2759

12 MICHAEL KIRSCH
15207 Magnolia Blvd., #109
13 Sherman Oaks, CA 91403

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 Pharmacist License No. RPH 21967

15 Respondent.

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

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 Marc D. Greenbaum, Deputy
23 Attorney General.

24 2. Respondent Michael Kirsch is represented in this proceeding by attorney
25 Stuart L. Olster, whose address is 16830 Ventura Blvd., #347, Encino, CA 91436.

26 3. On or about February 10, 1961, the Board of Pharmacy issued Pharmacist
27 License No. RPH 21967 to Michael Kirsch (Respondent).

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FROM : Michael P. Kirsch

PHONE NO. : 818 995 0442

Jan. 25 1997 12:04AM P1

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 21967 issued to Respondent Michael Kirsch is revoked.

a. Respondent shall pay the Board its costs of investigation and enforcement in the amount of \$4,000.00 prior to issuance of a new or reinstated license.

ACCEPTANCE

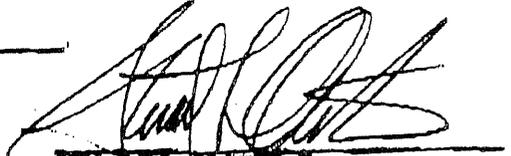
I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Stuart L. Olster. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 7-9-04


MICHAEL KIRSCH
Respondent

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

DATED: 7-12-04


STUART L. OLSTER, Esq.
Attorney for Respondent

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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: 7/12/04.

BILL LOCKYER, Attorney General
of the State of California



MARC D. GREENBAUM
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: LA2004600414
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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. 2759

MICHAEL KIRSCH
15207 Magnolia Blvd., #109
Sherman Oaks, CA 91403

Pharmacist License No. RPH 21967

Respondent.

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 September 24, 2004.

It is so ORDERED August 25, 2004.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY W. GOLDENBERG
Board President

Exhibit A
Accusation No. 2759

1 BILL LOCKYER, Attorney General
of the State of California
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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. 2759

12 MICHAEL KIRSCH
4163 Longridge Ave.
13 Sherman Oaks, CA 91423

OAH No.

14 Pharmacist License No. RPH 21967

A C C U S A T I O N

15 Respondent.

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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 (Board), Department of
21 Consumer Affairs.

22 2. On or about February 10, 1961, the Board issued Pharmacist License No.
23 RPH 21967 to Michael Kirsch (Respondent). The license will expire on November 30, 2005,
24 unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board, Department of Consumer
27 Affairs, under the authority of the following laws. All section references are to the Business and
28 Professions Code unless otherwise indicated.

1 4. Section 4300 permits the Board to take disciplinary action to suspend or
2 revoke a license or permit.

3 5. Section 118(b) states that the suspension, expiration, or forfeiture by
4 operation of law of a license issued by a Board in the department, or its suspension, forfeiture, or
5 cancellation by order of the Board or by order of a court of law, or its surrender without the
6 written consent of the Board, shall not, during any period in which it may be renewed, restored,
7 reissued, or reinstated.

8 6. Section 4301 states that the Board shall take action against any holder of a
9 license who is guilty of unprofessional conduct or whose license has been procured by fraud or
10 misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited
11 to, any of the following:

12

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

16

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

19

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

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

25 7. Health & Safety Code section 11158 states (a) Except as provided in
26 Section 11159 or in subdivision (b) of this section, no controlled substance classified in Schedule
27 II shall be dispensed without a prescription meeting the requirements of this chapter. Except as
28 provided in Section 11159 or when dispensed directly to an ultimate user by a practitioner, other

1 than a pharmacist or pharmacy, no controlled substance classified in Schedule III, IV, or V may
2 be dispensed without a prescription meeting the requirements of this chapter.

3 8. Health & Safety Code section 11170 states that no person shall prescribe,
4 administer, or furnish a controlled substance for himself.

5 9. Health and Safety Code section 11350(a) states, in pertinent part, that
6 except as otherwise provided in this division, every person who possesses any controlled
7 substance which is a narcotic drug, unless upon the written prescription of a physician licensed to
8 practice in this state, shall be punished by imprisonment in the state prison.

9 10. Code of Federal Regulations, section 1306.11(a), in pertinent part, states
10 that a pharmacist may dispense directly a controlled substance listed in Schedule II, which is a
11 prescription drug as determined under the Federal Food, Drug, and Cosmetic Act, only pursuant
12 to a written prescription signed by the practitioner, except as provided in paragraph (d) of this
13 section.

14 CONTROLLED SUBSTANCES

15 11. Cocaine is a dangerous drug as defined by section 4022 and a controlled
16 substance as listed in Health and Safety Code section 11055(b)(6). It is used as a
17 nasal/ophthalmic anesthetic.

18 FIRST CAUSE FOR DISCIPLINE

19 **(Possession of Controlled Substance/Dangerous Drug)**

20 12. Respondent has subjected his license to discipline pursuant to section 4300
21 as defined in section 4301(j) for unprofessional conduct in conjunction with Health and Safety
22 Code section 11350(a) in that Respondent was in possession of Cocaine Hydrochloride, a
23 controlled substance and dangerous drug as follows:

24 a. On or about May 28, 2003, a special agent from the Federal Department of
25 Homeland Security, Bureau of Immigration and Customs Enforcement, recovered from
26 Respondent's home two containers labeled Cocaine Hydrochloride.

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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:

1. Revoking or suspending Pharmacist License No. RPH 21967, issued to Michael Kirsch.

2. Ordering Michael Kirsch 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;

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

DATED: 5/11/04



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