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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 DAWN ELAINE JUREWITZ
12 3300 Mayten Way
13 Elk Grove, CA 95758

14 Original Pharmacist License No. RPH 41520

15 Respondent.

Case No. 2768

OAH No. N2005050369

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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 Jana L. Tuton, Deputy Attorney
23 General.

24 2. Respondent DAWN ELAINE JUREWITZ (Respondent) is represented in
25 this proceeding by attorney Gregory F. Matzen, whose address is 2500 Ventura Oaks, Suite 200,
26 Sacramento, CA 95833.

27 3. On or about April 23, 1988, the Board of Pharmacy issued Original
28 Pharmacist License No. RPH 41520 to DAWN ELAINE JUREWITZ (Respondent). The

1 License was in full force and effect at all times relevant to the charges brought in Accusation No.
2 2768 and will expire on May 31, 2007, unless renewed.

3 JURISDICTION

4 4. Accusation No. 2768 was filed before the Board of Pharmacy (Board),
5 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
6 and all other statutorily required documents were properly served on Respondent on December 3,
7 2004. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of
8 Accusation No. 2768 is attached as exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, fully discussed with counsel, and
11 understands the charges and allegations in Accusation No. 2768. Respondent has also carefully
12 read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and
13 Disciplinary Order.

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

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

23 CULPABILITY

24 8. Respondent admits the truth of each and every charge and allegation in
25 paragraph 13 in Accusation No. 2768. On the dates listed in the accusation, respondent filled
26 bona fide prescriptions for herself while working as a pharmacist at Longs Drug Store.

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1 stayed and Respondent is placed on probation for three (3) years on the following terms and
2 conditions:

3 1. **Obey All Laws.** Respondent shall obey all state and federal laws and
4 regulations substantially related to or governing the practice of pharmacy.

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

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

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

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

27 4. **Cooperation with Board Staff.** Respondent shall cooperate with the
28 Board's inspectional program and in the Board's monitoring and investigation of Respondent's

1 compliance with the terms and conditions of her probation. Failure to comply shall be
2 considered a violation of probation.

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

5 6. **Notice to Employers.** Respondent shall notify all present and
6 prospective employers of the decision in case number 2768 and the terms, conditions and
7 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of
8 this decision, and within 15 days of Respondent undertaking new employment, Respondent
9 shall cause her direct supervisor, pharmacist-in-charge and/or owner to report to the Board in
10 writing acknowledging the employer has read the decision in case number 2768.

11 If Respondent works for or is employed by or through a pharmacy employment
12 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at
13 every pharmacy of the and terms conditions of the decision in case number 2768 in advance of
14 the Respondent commencing work at each pharmacy.

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

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

23 8. **Reimbursement of Board Costs.** Respondent shall pay to the Board
24 its costs of investigation and prosecution in the amount of \$5,200.00. Respondent shall make
25 said payments as follows: quarterly.

26 The filing of bankruptcy by Respondent shall not relieve Respondent of her
27 responsibility to reimburse the Board its costs of investigation and prosecution.

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1 9. **Probation Monitoring Costs.** Respondent shall pay the costs
2 associated with probation monitoring as determined by the Board each and every year of
3 probation. Such costs shall be payable to the Board at the end of each year of probation.
4 Failure to pay such costs shall be considered a violation of probation.

5 10. **Status of License.** Respondent shall, at all times while on probation,
6 maintain an active current license with the Board, including any period during which
7 suspension or probation is tolled.

8 If Respondent's license expires or is cancelled by operation of law or otherwise,
9 upon renewal or reapplication, Respondent's license shall be subject to all terms and
10 conditions of this probation not previously satisfied.

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

18 Upon acceptance of the surrender, Respondent shall relinquish her pocket
19 license to the Board within 10 days of notification by the Board that the surrender is accepted.
20 Respondent may not reapply for any license from the Board for three years from the effective
21 date of the surrender. Respondent shall meet all requirements applicable to the license sought
22 as of the date the application for that license is submitted to the Board.

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

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1 13. **Tolling of Probation.** Should Respondent, regardless of residency, for
2 any reason cease practicing pharmacy for a minimum of 40 hours per calendar month in
3 California, Respondent must notify the Board in writing within 10 days of cessation of the
4 practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time
5 shall not apply to the reduction of the probation period. It is a violation of probation for
6 Respondent's probation to remain tolled pursuant to the provisions of this condition for a
7 period exceeding three years.

8 "Cessation of practice" means any period of time exceeding 30
9 days in which Respondent is not engaged in the practice of
10 pharmacy as defined in Section 4052 of the Business and
11 Professions Code.

12
13 14. **Violation of Probation.** If Respondent violates probation in any
14 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke
15 probation and carry out the disciplinary order which was stayed. If a petition to revoke
16 probation or an accusation is filed against Respondent during probation, the Board shall have
17 continuing jurisdiction and the period of probation shall be extended, until the petition to
18 revoke probation or accusation is heard and decided.

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

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

26 16. **Mental Health Examination.** Within 30 days of the effective date of
27 this decision, and on a periodic basis as may be required by the Board, Respondent shall
28 undergo, at her own expense, psychiatric evaluation(s) by a Board-appointed or Board-

1 approved psychiatrist or psychologist. Respondent shall sign a release authorizing the
2 evaluator to furnish the Board with a current diagnosis and a written report regarding the
3 Respondent's judgment and ability to function independently as a pharmacist with safety to the
4 public. Respondent shall comply with all the recommendations of the evaluator if directed by
5 the Board.

6 If the psychiatrist or psychotherapist recommends, and the Board directs,
7 Respondent shall undergo psychotherapy. Within 30 days of such recommendation by the
8 psychiatrist, Respondent shall contact the Pharmacists Recovery Program for evaluation and
9 shall successfully participate in and complete psychotherapy as recommended and provided
10 by the PRP and as approved by the Board. The costs for PRP participation shall be borne by
11 the Respondent.

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

16 If Respondent is required by the Board to undergo medical treatment,
17 Respondent shall, within 30 days of written notice from the Board, submit to the Board for its
18 prior approval, the name and qualifications of a physician of Respondent's choice. Upon
19 Board approval of the treating physician, Respondent shall undergo and continue medical
20 treatment, with that physician and at Respondent's own expense, until further notice from the
21 Board. Respondent shall have the treating physician submit written quarterly reports to the
22 Board. Should Respondent, for any reason, cease treatment with the approved physician,
23 Respondent shall notify the Board immediately and, within 30 days of ceasing treatment,
24 submit the name of a replacement physician of Respondent's choice to the Board for its prior
25 approval.

26 If recommended by the physician and approved by the Board, Respondent shall be
27 suspended from practicing pharmacy until the treating physician recommends, in writing,
28 stating the basis therefor, that Respondent can safely and independently resume the practice of

1 a pharmacist, and the Board approves said recommendation. Respondent shall not resume
2 practice until notified by the Board.

3 During suspension, Respondent shall not enter any pharmacy area or any
4 portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any
5 other distributor of drugs which is licensed by the Board, or any manufacturer, or where
6 dangerous drugs and devices or controlled substances are maintained. Respondent shall not
7 practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing,
8 compounding, dispensing or patient consultation; nor shall Respondent manage, administer,
9 or be a consultant to any licensee of the Board, or have access to or control the ordering,
10 manufacturing or dispensing of dangerous drugs and controlled substances.

11 Respondent shall not engage in any activity that requires the professional
12 judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of
13 pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee
14 for any entity licensed by the Board. Subject to the above restrictions, Respondent may
15 continue to own or hold an interest in any pharmacy in which she holds an interest at the time
16 this decision becomes effective unless otherwise specified in this order.

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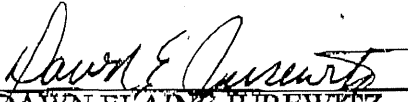
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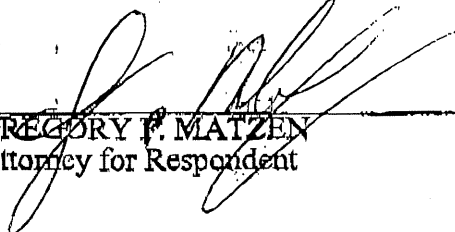
ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Gregory F. Matzen. 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: 8/8/05


DAWN ELAINE JUREWITZ
Respondent

DATED: 8/8/05

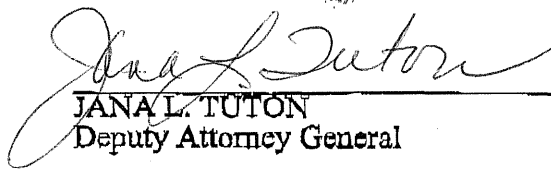

GREGORY F. MATZEN
Attorney for Respondent

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: 8/8/05

BILL LOCKYER, Attorney General
of the State of California


JANA L. TUTON
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:

DAWN ELAINE JUREWITZ
3300 Mayten Way
Elk Grove, CA 95758

Original Pharmacist License No. RPH 41520

Respondent.

Case No. 2768

OAH No. N2005050369

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 October 20, 2005.

It is so ORDERED September 20, 2005.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY W. GOLDENBERG
Board President

Exhibit A
Accusation No. 2768

1 BILL LOCKYER, Attorney General
of the State of California
2 JANA L. TUTON, State Bar No. 78206
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) 323-9119
Facsimile: (916) 327-8643

6 Attorneys for Complainant

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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. 2768

12 **DAWN ELAINE JUREWITZ**
3300 Mayten Way
13 Elk Grove, CA 95758

ACCUSATION

14 **Original Pharmacist License No. RPH 41520**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

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

21 2. On or about April 23, 1988, the Board of Pharmacy issued Original
22 Pharmacist License Number RPH 41520 to Dawn Elaine Jurewitz ("Respondent"). The license
23 will expire on May 31, 2005, unless renewed.

24 **STATUTORY PROVISIONS**

25 3. Section 4300 of the Business and Professions Code ("Code") provides, in
26 pertinent part:

27 "(a) Every license issued may be suspended or revoked.
28

1 (b) The board shall discipline the holder of any license issued by the
2 board, whose default has been entered or whose case has been heard by the board and found
3 guilty, by any of the following methods:

4 (1) Suspending judgment.

5 (2) Placing him or her upon probation.

6 (3) Suspending his or her right to practice for a period not exceeding one
7 year.

8 (4) Revoking his or her license.

9 (5) Taking any other action in relation to disciplining him or her as the
10 board in its discretion may deem proper."

11 4. Section 4301 of the Code provides:

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

16
17 (j) The violation of any of the statutes of this state or of the United
18 States regulating controlled substances and dangerous drugs.

19
20 (o) Violating or attempting to violate, directly or indirectly, or assisting in
21 or 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 5. Section 4327 of the Code provides:

25 "Any person who, while on duty, sells, dispenses or compounds any drug
26 while under the influence of any dangerous drug or alcoholic beverages shall be guilty of a
27 misdemeanor."

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1 a. On September 8, 2002; October 13, 2002; January 19, 2003;
2 March 16, 2003; and April 20, 2003, respondent self-furnished Darvocet N-100.

3 b. On December 14, 2002; January 19, 2003; February 8, 2003,
4 March 2, 2003; March 30, 2003; April 20, 2003; and May 25, 2003, respondent self-furnished
5 Darvon.

6 **SECOND CAUSE FOR DISCIPLINE**

7 (Dispensing While Under the Influence)

8 14. Respondent is subject to discipline under Section 4301, subdivisions (j)
9 and (o), and Section 4327 of the Code for violating or attempting to violate, directly or indirectly,
10 provisions or terms of the Pharmacy Law (Bus. & Prof. Code, § 4000 et seq.), or other applicable
11 federal and/or state laws or regulations governing pharmacy. Specifically, on multiple occasions
12 from on or about September 2002 until on or about May 2003, while employed at Longs Drug
13 Store located in Sacramento, California, Respondent committed acts of unprofessional conduct
14 by dispensing or compounding drugs while under the influence of the drugs Darvocet N-100 and
15 OxyContin.

16 **PRAYER**

17 **WHEREFORE**, Complainant requests that a hearing be held on the matters
18 herein alleged, and that following the hearing the Board issue a decision:

19 1. Revoking or suspending Original Pharmacist License Number RPH 41520
20 issued to Dawn Elaine Jurewitz;

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- 2. Ordering Dawn Elaine Jurewitz to pay the reasonable costs incurred by the Board in the investigation and enforcement of this case pursuant to Section 125.3 of the Code; and,
- 3. Taking such other and further action as deemed necessary and proper.

DATED: 11/22/04

P. F. Harris

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

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