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of the State of California
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Attorneys for Complainant

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

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|---|---|
| In the Matter of the Accusation Against:<br><br>CESAR BURGUILLOS CABRERA, R.P.H.<br><br>31921 Old Hickory Road<br>Trabuco Canyon, CA 92679<br><br>Pharmacist License No. RPH 41132<br><br>Respondent. | Case No. 2777<br><br>OAH No. L-2004080434<br><br>**STIPULATED SETTLEMENT AND DISCIPLINARY ORDER** |

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Board of Pharmacy the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval and adoption as the final disposition of the Accusation.

PARTIES

1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of Pharmacy has 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 James M. Ledakis, Deputy Attorney General.

2. Respondent Cesar Burguillos Cabrera, R.P.H. (Respondent) is represented in this proceeding by attorney Donald Brown, whose address is 3848 Carson Street, Suite 206 Torrance, CA 90503.

3. On or about August 18, 1987, the Board of Pharmacy issued Pharmacist License No. RPH 41132 to Cesar Burguillos Cabrera, R.P.H. (Respondent). The License was in full force and effect at all times relevant to the charges brought in Accusation No. 2777 and will expire on December 31, 2004, unless renewed.

JURISDICTION

4. Accusation No. 2777 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 4, 2004. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 2777 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. 2777. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his 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 his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his 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 understands and agrees that the charges and allegations in Accusation No. 2777, if proven at a hearing, constitute cause for imposing discipline upon his Pharmacist License.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

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

RESERVATION

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

CONTINGENCY

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

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

**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Pharmacist License No. RPH 41132 issued to Respondent Cesar Burguillos Cabrera, R.P.H. (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. **Actual Suspension**. Pharmacist license number RPH 41132, issued to Respondent Cesar Burguillos Cabrera, R.P.H. is suspended for a period of ninety (90) days.

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

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

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

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

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

2. **Reporting to the Board.** Respondent shall report to the Board quarterly. The report shall be made either in person or in writing, as directed. Respondent

shall state under penalty of perjury whether there has been compliance with all the terms and conditions of probation. If the final probation report **is not** made as directed, probation shall be extended automatically until such time as the final report is made and accepted by the Board.

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

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

5. **Notice to Employers.** Respondent shall notify all present and prospective employers of the decision in case number 2777 and the terms, conditions and restrictions imposed on Respondent by the decision. Within 30 days of the effective date of this decision, and within 15 days of Respondent undertaking new employment, Respondent shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in writing acknowledging the employer has read the decision in case number 2777.

If Respondent works for or is employed by or through a pharmacy employment service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at every pharmacy of the and terms conditions of the decision in case number 2777 advance of the Respondent commencing work at each pharmacy.

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

6. **No Preceptorships, Supervision of Interns, Being Pharmacist-in-Charge (PIC), or Serving as a Consultant.** Respondent shall not supervise any intern pharmacist or perform any of the duties of a preceptor, nor shall Respondent be the

pharmacist-in-charge of any entity licensed by the Board unless otherwise specified in this order.

7. **Reimbursement of Board Costs.** Respondent shall pay to the Board its costs of investigation and prosecution in the amount of $6,300. Respondent may make arrangements with his probation monitor to make payments over the course of his probation, but all payments must be made in full per agreement as a condition of probation.

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

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

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

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

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

Upon acceptance of the surrender, Respondent shall relinquish his pocket license to the Board within 10 days of notification by the Board that the surrender is accepted. Respondent may not reapply for any license from the Board for three years from the effective

date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board.

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

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

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

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

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

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

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

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

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

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

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

19. **Tolling of Suspension.** If Respondent leaves California to reside or practice outside this state, for any period exceeding 10 days (including vacation), Respondent must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the state - or any absence exceeding a period of 10 days shall not apply to the reduction of the suspension period. 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 above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Donald Brown. 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.

DATED: 12/27/04

CESAR BURGUILLOS CABRERA, R.P.H.
(Respondent)



12/17/2004 10:07 Dept. of Justice → 913107920691

I concur with this stipulated settlement.

DATED: DEC 29 2004.

DONALD BROWN
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

DATED: January 3, 2005.

BILL LOCKYER, Attorney General
of the State of California

JAMES M. LEDAKIS
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SD2004800487
80045735.wpd



12/17/2004 10:07 Dept. of Justice → 9131079206691 NO.431 D011

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

| | |
|---|---|
| In the Matter of the Accusation Against:<br><br>CESAR BURGUILLOS CABRERA, R.P.H.<br><br>31921 Old Hickory Road<br>Trabuco Canyon, CA 92679<br><br>Pharmacist License No. RPH 41132<br><br>Respondent. | Case No. 2777<br><br>OAH No. L-2004080434 |

## DECISION AND ORDER

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

This Decision shall become effective on March 6, 2005.

It is so ORDERED February 4, 2005.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

STANLEY W. GOLDENBERG
Board President

**Exhibit A**

**Accusation No. 2777**

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Attorneys for Complainant

**BEFORE THE**
**BOARD OF PHARMACY**
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| In the Matter of the Accusation Against:<br><br>CESAR B. CABRERA<br>31921 Old Hickory Road<br>Trabuco Canyon, CA 92679<br><br>License No. RPH 41132<br><br>Respondent. | Case No. 2777<br><br>**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 August 18, 1987, the Board of Pharmacy issued Original Pharmacist License Number RPH 50646 to CESAR B. CABRERA (Respondent). Said license will expire on December 31, 2004, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board of Pharmacy (Board), under the authority of the following sections of the Business and Professions Code (Code).

4. Section 4022 of the Code states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use, except veterinary drugs that are labeled as such, and includes the following:

"(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

"(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

". . . ,

5. Section 4300 of the Code states:

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

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

" . . . ,

6. 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:

". . . ,

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

. . . ,

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

. . . ,

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

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

. . . ,"

7. Section 4059 of the Code states, in pertinent part, that a person may not furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.

8. Section 4060 of the Code states:

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

"Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, or a physician assistant to order his or her own stock of dangerous drugs and devices."

9. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

10. 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.

DRUGS DEFINED:

11. "Tylenol with Codeine No. 4," is also known generically as a combination drug containing Acetaminophen and not more than 1.8 grams of Codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts. It is a Schedule III controlled substance as designated by California Health and Safety Code section 11056(e)(2).

12. "Diazepam" also known as "Valium" is a Schedule IV drug as classified by Health & Safety Code Section 11057(d)(9).

13. "Dyazide," a brand name for triamterene, is unsafe for self-medication, and is a dangerous drug as defined by California Business and Professions Code section 4022.

14. "Fastin, 30 mg.," is a brand name for phentermine hydrochloride which is a Schedule IV controlled substance as designated by California Health and Safety Code section 11057(f)(4).

15. "Glucophage", also known generically as "Metformin" is a dangerous drug as defined by California Business and Professions Code section 4022.

16. "Hydrocodone" is a Schedule III drug as classified by Health & Safety Code section 11056(e)(4).

17. "Carisoprodol" is the generic form of Soma and is a dangerous drug as defined under Business & Professions Code section 4022.

STATEMENT OF FACTS:

18. On January 8, 2003, Long Beach Police Officer P.R. stopped his patrol car to assist a stranded motorist, Respondent, on the side of the road. Respondent told the officer that he hit a mud puddle and his engine died. Officer P.R. called a tow truck for respondent.

19. During a routine license check, Officer P.R. discovered that Respondent was driving on a suspended drivers license and expired license plates. Incident to Respondent's arrest, Officer P.R. observed in plain view a medium sized pill bottle, with no label, in an open soft sided brief case in Respondent's car. Respondent told the officer that the pills were Soma (a dangerous drug) and that he did not have a prescription for them in his possession. Officer P.R. requested permission to search his car and Respondent consented. Officer P.R. took into custody $1,850 in cash, 1000 tablets of Acetaminophen with Codeine #3, 174 tablets of Hydrocodone 10/325, 270 tablets of Vicodin ES 7.5/750, 141 tablets of Hydrocodone/APAP, 100 tablets of Soma, 700 tablets of Diazepam, 97 tablets of Metformin Hydrochloride, 24 tablets of Hyzaar and a small bottle of 10 tablets of generic Soma.

20. Officer P.R. asked Respondent if he had a prescription for all the aforementioned drugs and Respondent replied "no". Respondent told Officer P.R. that he took the drugs from Wards Pharmacy in Long Beach, California, where he worked part time.

Respondent was arrested for driving on a suspended license and drug possession.

21. On December 18, 2003, Respondent pled guilty to two felony counts and one misdemeanor count for possession of drugs with intent to sell as follows: 1) Felony possession for sale of Hydrocodone with Acetaminophen, 2) Felony possession for sale of Acetaminophen with Codeine, and 3) misdemeanor possession for sale of Diazepam.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct for Acts Involving Moral Turpitude)

22. Respondent is subject to disciplinary action under section 4301(f) for unprofessional conduct involving moral turpitude in that on December 18, 2003, he pled guilty to two felony counts and one misdemeanor count related to possession of drugs with intent to sell.

23. Complainant incorporates by reference paragraphs 18 through 21.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct for Violation of Law)

24. Respondent is subject to disciplinary action under section 4301(j) for violation of statutes related to controlled substances in that Respondent was convicted of two counts of violating Health & Safety Code section 11351 and one count of violating Health & Safety Code section 11375 in the Superior Court for the County of Orange, State of California.

25. Complainant incorporates by reference as though fully set forth paragraphs 18 through 21.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct for Conviction of Crime Substantially Related to his Duties as a Pharmacist)

26. Respondent is subject to disciplinary action under section 4301(l) for conviction of crimes substantially related to his duties as a pharmacist in that Respondent pled guilty to two felony counts of possession and one misdemeanor count of possession of drugs with intent to sell resulting in a conviction for violation of Health & Safety Code sections 11351 and 11375.

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27. Complainant incorporates by reference as though fully set forth paragraphs 18 through 21.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct for Engaging in Conduct Warranting Denial of a License)

28. Respondent is subject to disciplinary action under section 4301(p) for engaging in conduct that would have warranted the denial of his license in that he was convicted of two felonies and one misdemeanor for possession of drugs with intent to sell.

29. Complainant incorporates by reference as though fully set forth paragraphs 18 through 21.

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 RPH License No. 41132, issued to CESAR B. CABRERA;

2. Ordering CESAR B. CABRERA 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: 7/23/04

P. F. Harris

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