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Attorneys for Complainant

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

In the Matter of the Accusation Against: JOHN E. ALDAZ 3539 San Miguel Bonita, CA 91902 Pharmacist License No. RPH 24861 Respondent.	Case No. 2849 OAH No. L-2006020439 **STIPULATED SURRENDER OF LICENSE AND ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties in this proceeding that the following matters are true:

PARTIES

1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of Pharmacy. Complainant 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 Karen L. Gordon, Deputy Attorney General.

2. John E. Aldaz (Respondent) is represented in this proceeding by attorney Dennis M. Warren, whose address is 725 30th Street, Suite 102, Sacramento, California 95816.

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3. On or about March 3, 1967, the Board of Pharmacy issued Pharmacist License No. RPH 24861 to John E. Aldaz (Respondent). The License was in full force and effect at all times relevant to the charges brought in Accusation No. 2849 and will expire on September 30, 2006, unless renewed.

JURISDICTION

4. Accusation No. 2849 was filed before the Board of Pharmacy, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 7, 2005. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 2849 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. 2849. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and 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.

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CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 2849, agrees that cause exists for discipline and hereby surrenders his Pharmacist License No. RPH 24861 for the Board's formal acceptance.

9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Pharmacist License without further process.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent Aldaz understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulated surrender, without notice to or participation by Respondent Aldaz. By signing the stipulation, Respondent Aldaz understands and agrees that he may not withdraw his 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 Surrender and Disciplinary Order 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.

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

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

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ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 24861, issued to Respondent John E. Aldaz is surrendered and accepted by the Board.

1. The surrender of Respondent's Pharmacist License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a Pharmacist in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board both his wall and pocket license certificate on or before the effective date of the Decision and Order.

4. Respondent understands and agrees that if he ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 2849 shall be deemed to be true, correct, and admitted by Respondent when the Board determines whether to grant or deny the application or petition.

5. Should Respondent ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other heath care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 2849 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

6. Should Respondent ever apply for a new license, Respondent shall pay the Board its costs of investigation and enforcement in this case in the amount of $5,323.25, upon application for a new license.

7. Respondent shall not apply for licensure for three (3) years from the effective date of the Board of Pharmacy's Decision and Order.

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Dennis M. Warren. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board.

DATED: 5-22-06

JOHN E. ALDAZ
Respondent

APPROVAL

I have read and fully discussed with Respondent John E. Aldaz the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 05.22.2006

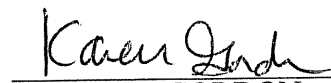
DENNIS M. WARREN
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board.

DATED: 5-23-06

BILL LOCKYER, Attorney General
of the State of California



KAREN L. GORDON
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SD2005700944
Aldaz.Stipulated Surrender.wpd

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

In the Matter of the Accusation Against: JOHN E. ALDAZ 3539 San Miguel Bonita, CA 91902 Pharmacist License No. RPH 24861 Respondent.	Case No. 2849 OAH No. L-2006020439 **STIPULATED SURRENDER OF LICENSE AND ORDER**

DECISION AND ORDER

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

This Decision shall become effective on August 24, 2006.

It is so ORDERED July 25, 2006.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By William Powers
WILLIAM POWERS
Board President

Exhibit A

Accusation No. 2849

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Attorneys for Complainant

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

In the Matter of the Accusation Against: JOHN E. ALDAZ 3539 San Miguel Bonita, CA 91902 Pharmacist License No. RPH 24861 Respondent.	Case No. 2849 **ACCUSATION**

The Complainant, Patricia F. Harris, for cause of Accusation against JOHN E. ALDAZ, alleges as follows:

PARTIES

1. The Complainant, Patricia F. Harris, is the Executive Officer of the California State Board of Pharmacy (hereinafter the "Board") and makes this Accusation solely in her official capacity.

2. On or about March 3, 1967, the Board issued Original Pharmacist License Number RPH 24861 to respondent JOHN E. ALDAZ (hereinafter respondent "ALDAZ"). At all times material herein, respondent ALDAZ was and currently is licensed by the Board as a registered pharmacist. The license expires on September 30, 2006, unless renewed.

JURISDICTION

3. Complainant brings this Accusation under the power vested in the Board in Business and Professions Code section 4300(a) to suspend or revoke licenses issued by the Board pursuant to the California Pharmacy Act, Chapter 9, Division 2, section 4000 et seq. of the Business and Professions Code.

FACTS

4. On or about August 24, 2004, in the United States District Court, Southern District of California, an information was filed against respondent ALDAZ. The case is entitled *United States of America v. John Eloy Aldaz,* Case No. 04CR2252-JM. On or about August 24, 2004, respondent ALDEZ was convicted upon his plea of guilty of violating Title 18, United States Code (U.S.C.), Section 371, conspiracy to smuggle pharmaceuticals, a felony.

5. The facts and circumstances of the convictions under Title 18, U.S.C., section 371 are that as early as December 18, 2003, and continuing up to and including May 10, 2004, respondent ALDAZ did knowingly combine, conspire and agree together with Jose Gustave Garcia Uriza and others to knowingly and willfully with intent to defraud the United States, smuggle pharmaceuticals into the United States in violation of Title 18, USC, section 545. Viagra has been identified as a dangerous drug pursuant to Business and Professions Code section 4022.

6. Respondent ALDAZ agreed with Jose Gustave Garcia Uriza to supply Mark Kolowich with pharmaceuticals from Mexico containing the active ingredient found in Viagra, believing that Kolowich intended to sell the "Viagra" to customers via his internet pharmacy. Respondent ALDEZ also agreed with Garcia to supply Kolowich with 5,000 "Viagra" tablets on three separate occasions. Kolowich paid respondent and Garcia collectively $25,000 for each shipment of 5,000 "Viagra" tablets. Respondent and Garcia delivered two out of the three shipments to Kolowich. Respondent knew that at the time the "Viagra" supplied to Kolowich entered the United States, it was not declared to Customs inspectors. Respondent admits that the fair market value of the "Viagra" he conspired to smuggle and deliver to Kolowich was $75,000.

7. On or about January 7, 2005, respondent ALDAZ was sentenced to serve 6

months custody time, placed on 3 years probation, and ordered to pay a $2,000 fine.

FIRST CAUSE FOR DISCIPLINE

(Substantially Related Conviction)

8. Complainant incorporates herein by this reference the preamble and each of the allegations set forth in paragraphs 1 through 7 hereinabove.

9. Business and Professions Code section 4301 provides, in part, that the Board shall take action against any holder of a license who is guilty of unprofessional conduct.

10. Business and Professions Code section 4301(l) provides that unprofessional conduct for a licensed pharmacist includes the conviction of a crime that is substantially related to the qualifications, functions and duties of a licensee under the Pharmacy Act.

11. The pharmacist license held by respondent ALDAZ is subject to discipline under Business and Professions Code section 4300, in that respondent was guilty of unprofessional conduct within the meaning of Business and Professions Code section 4301(l), through the criminal conviction for conspiring to smuggle pharmaceuticals into the United States, as described in paragraphs 4 through 7 hereinabove.

SECOND CAUSE FOR DISCIPLINE

(Violation of Statutes Pertaining to Dangerous Drugs)

12. Complainant incorporates herein by this reference the preamble and each of the allegations set forth in paragraphs 1 through 11 hereinabove.

13. Business and Professions Code section 4301(j) provides that unprofessional conduct for a licensed pharmacist includes the violation of any of the statutes of this state or of the United States regulating controlled substances or dangerous drugs.

14. The pharmacist license held by respondent ALDAZ is subject to discipline under Business and Professions Code section 4300, for unprofessional conduct within the meaning of Business and Professions Code section 4301(j), in that he conspired to smuggle pharmaceuticals classified as dangerous drugs into the United States, knowing that such drugs had failed to be declared to United States Custom inspectors, as described in paragraph 6.

OWNERSHIP PROHIBITION

15. Business and Professions Code section 4307(a) provides, in pertinent part, that any person whose license has been revoked or is under suspension shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate or partner of a licensee.

16. Pursuant to Business and Professions Code section 4307(a), in the event the license issued to respondent ALDAZ is revoked or placed on suspension, respondent ALDAZ shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate or partner of any licensee with rights issued by the Board.

COST RECOVERY

17. Business and Professions Code section 125.3 provides that, in any order issued in resolution of a disciplinary proceeding before any board within the Department of Consumer Affairs, 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.

18. Under Business and Professions Code section 101(d), the California State Board of Pharmacy was and is a board within the Department of Consumer Affairs of the State of California. Pursuant to Business and Professions Code section 125.3, the Board hereby requests the Administrative Law Judge who issues a proposed decision in this matter to include an order which provides for the recovery by the Board of the costs of investigation and enforcement of this case against respondent ALDAZ, according to proof.

WHEREFORE, Complainant prays that a hearing be had and that the California State Board of Pharmacy make its order:

1. Revoking or suspending Pharmacist License Number RPH 24861 issued to respondent JOHN E. ALDAZ.

2. Prohibiting respondent JOHN E. ALDAZ from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee, pursuant to the provisions of Business and Professions Code section 4307(a).

3. Directing respondent JOHN E. ALDAZ to pay the California State Board of Pharmacy the reasonable costs of the investigation and prosecution of this matter pursuant to Business and Professions Code section 125.3, according to proof.

4. Taking such further action as is deemed necessary and proper.

DATED: 11/28/05.

P. F. Harris

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

Attorneys for Complainant

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