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of the State of California
2 LORRIE MARIE YOST,
Deputy Attorney General, State Bar No. 119088
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5 Attorneys for Complainant

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

10 In the Matter of the Accusation) NO. 1903
Against:)
11)
12 UNIVERSAL SELF CARE INC., dba) STIPULATION IN
HOME THERAPY SERVICES CO-OP) SETTLEMENT AND DECISION
13 13715 Burbank Boulevard) REGARDING RESPONDENT
Van Nuys, CA 91401) ROSENBERG ETTIE KAUFMAN
Original Pharmacy Permit No.)
14 PHY 37429)
15)
ROSENBERG ETTIE KAUFMAN)
219 N. Elm Drive)
16 Beverly Hills, CA 90210)
Original Licentiate No.)
17 RPH-33408)
18)
and)
19)
PAUL MEYER WASSERMAN)
517 N. Bedford Drive)
20 Beverly Hills, CA 90210)
Original Licentiate No.)
21 RPH-14002)
22 Respondents.)
23)

24 In the interest of a prompt and speedy settlement of
25 this matter, consistent with the public interest and the
26 responsibility of the Board of Pharmacy, Department of Consumer
27 Affairs (hereinafter "Board") the parties submit this Stipulation

1 and Decision to the Board for its approval and adoption as the
2 final disposition of the Accusation.

3 The parties stipulate the following is true:

4 1. An Accusation, Case No. 1903 against Universal Self
5 Care, Inc., dba Home Therapy Services Co-op, Paul Meyer
6 Wasserman, and Rosenberg Ettie Kaufman (also known as Ettie
7 Rosenberg and hereinafter referred to as "respondent Rosenberg"),
8 is currently pending before the Board. The Accusation, together
9 with all other statutorily required documents, was duly served on
10 the respondents on or about August 11, 1998, and respondent
11 Rosenberg filed her Notice of Defense (contesting the Accusation)
12 on or about August 17, 1998. A copy of Accusation No. 1903 is
13 attached as Attachment "A" and incorporated by reference as if
14 fully set forth.

15 2. At all times relevant herein, respondent Rosenberg
16 has been licensed by the Board of Pharmacy under Original
17 Licentiate No. RPH-33408.

18 3. Respondent Rosenberg is represented by counsel
19 Herbert L. Weinberg, Esq. in this matter. Respondent has fully
20 and completely discussed with her counsel the effects of this
21 stipulation.

22 4. Respondent Rosenberg understands the nature of the
23 charges alleged in the Accusation and that the charges and
24 allegations constitute cause for imposing discipline upon its
25 license to practice pharmacy. Respondent is fully aware of her
26 right to a hearing on the charges and allegations contained in
27 said Accusation, her right to reconsideration, appeal and all

1 other rights accorded pursuant to the California Business and
2 Professions Code and Government Code, and freely and voluntarily
3 waives such rights.

4 5. Respondent Rosenberg admits the truth of the
5 allegations contained in Paragraph Numbers 11 and 14 of the
6 Accusation No. 1903, and that she was also the pharmacist-in-
7 charge of record with the Board for Universal Self Care Inc.
8 during the time that the violations pled in Paragraph Numbers 9,
9 10, and 12 allegedly occurred. Respondent agrees that she has
10 thereby subjected her license to discipline. Respondent agrees
11 to the Board's imposition of penalty as set out in the Order
12 below.

13 6. Admissions made by respondent Rosenberg herein are
14 for purposes of this proceeding, for any other disciplinary
15 proceedings by the Board, and for any petition for reinstatement,
16 reduction of penalty, or application for relicensure, and shall
17 have no force or effect in any other case or proceeding.

18 7. It is understood by respondent Rosenberg that, in
19 deciding whether to adopt this stipulation, the Board may receive
20 oral and written communications from its staff and the Attorney
21 General's office. Communications pursuant to this paragraph
22 shall not disqualify the Board or other persons from future
23 participation in this or any other matter affecting respondent.
24 In the event this settlement is not adopted by the Board, the
25 stipulation will not become effective and may not be used for any
26 purpose, except for this paragraph, which shall remain in effect.

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We concur in the stipulation and order.

DATED: March 30, 2000

BILL LOCKYER, Attorney General
of the State of California


Lorrie Marie Yost
Deputy Attorney General

Attorneys for Complainant

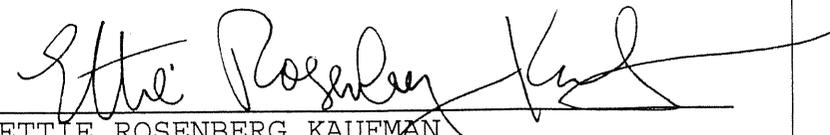
DATED: April 3, 2000


Herbert L. Weinberg, Attorney at Law
1620 26th Street, Suite 6000 North
Santa Monica, California 90404

Attorney for Respondent Ettie Rosenberg

I have carefully read and fully understand the stipulation and order set forth above. I have discussed the terms and conditions set forth in the stipulation and order with my attorney Herbert L. Weinberg, Esq. I understand that in signing this stipulation I am waiving my right to a hearing on the charges set forth in the Accusation on file in this matter. I further understand that in signing this stipulation the Board may enter into the foregoing order.

DATED: April 5, 2000


ETTIE ROSENBERG KAUFMAN
Respondent

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DECISION AND ORDER

The within Stipulation in Settlement and Decision is approved and adopted by the Board of Pharmacy as its decision in Administrative Case No. 1903, as to Rosenberg Ettie Kaufman, RPH 33408, in this matter on the 27th day of November, 2001. This decision shall become effective on the 28th day of December, 2001.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By Steve Litsey
STEVE LITSEY
Board President

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 LORRIE M. YOST,
Deputy Attorney General, State Bar No. 119088
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20 Beverly Hills, CA 90210)
21 Original Licentiate No.)
RPH-14002)
22 Respondents.)
23

24 COMES NOW Complainant Patricia Florian Harris, who as
25 cause for disciplinary action, alleges:

26 PARTIES

27 1. Complainant is the Executive Officer of the

1 California State Board of Pharmacy (hereinafter referred to as
2 "Board") and makes and files this accusation solely in her
3 official capacity.

4 License Status

5 2. On or about June 4, 1992, Original Pharmacy Permit
6 No. PHY 37429 was issued by the Board to Universal Self Care
7 Inc., dba Home Therapy Services Co-op (hereinafter referred to as
8 "respondent Home"). Between June 4, 1992 and November 30, 1994,
9 the pharmacist-in-charge for respondent Home was Rosenberg Ettie
10 Kaufman. From December 1, 1994, and at all times relevant
11 herein, the pharmacist-in-charge for respondent Home was Paul M.
12 Wasserman. At all times relevant herein, Original Pharmacy
13 Permit No. PHY 37429 was in full force and effect. Respondent
14 Home discontinued business effective September 20, 1996.

15 3. On or about September 19, 1979, Original Licentiate
16 No. RPH 33408 was issued by the Board to Rosenberg Ettie Kaufman
17 (hereinafter referred to as "respondent Kaufman"), and at all
18 times relevant herein, said Original Licentiate No. was in full
19 force and effect.

20 4. On or about July 26, 1933, Original Licentiate No.
21 RPH 14002 was issued by the Board to Paul Meyer Wasserman
22 (hereinafter referred to as "respondent Wasserman"), and at all
23 times relevant herein, said Original Licentiate No. was in full
24 force and effect.

25 5. On or about March 10, 1994, Medical Device Retailer
26 Permit No. MDR 1272 was issued by the Board to Universal Self
27 Care, a Corp., dba Sugar Free Centers (hereinafter referred to as

1 "Sugar Free"), and at all times relevant herein, said Medical
2 Device Retailer Permit No. was in full force and effect. Said
3 Medical Device Retailer Permit was cancelled on March 29, 1996.

4 JURISDICTION

5 6. This accusation is made in reference to the
6 following statutes of the California Business and Professions
7 Code (hereinafter referred to as "Code"):

8 a. Section 4300 (formerly known as sections 4350 and
9 4359) provides that every license issued by the Board may be
10 suspended, revoked, placed on probation, or have taken
11 against it such other action as the board in its discretion
12 may deem proper.

13 b. Section 4301 (formerly known as sections 4305.5
14 and 4351) provides, in part, that the Board may take action
15 against any license holder who has engaged in unprofessional
16 conduct. Unprofessional conduct includes, but is not
17 limited to: knowingly making, or signing, any certificate,
18 or other document, that falsely represents the existence, or
19 non-existence, of a state of facts; and the violation of, or
20 aiding in, or abetting, the violation of the Pharmacy Law,
21 or any applicable federal and state law and regulation
22 governing pharmacy.

23 c. Section 4081, (formerly known as section 4232)
24 provides, in part, that the owner, officer, and partner of
25 any pharmacy or medical device retailer shall be
26 responsible, along with the pharmacist-in-charge, for
27 maintaining all records of the acquisition or disposition of

1 dangerous drugs or devices, and that all records shall be
2 kept at all times during business hours open to inspection.

3 d. Section 4113(a), (formerly known as section 4054(b))
4 provides, in part, that every pharmacy shall designate a
5 pharmacist-in-charge, and within 30 days shall notify the
6 Board in writing of the identity and license number of that
7 pharmacist and the date he or she was designated.

8 e. Section 4113(b), (formerly known as section
9 4054(b)) provides, in part, that the pharmacist-in-charge
10 shall be responsible for a pharmacy's compliance with all
11 state and federal laws and regulations pertaining to the
12 practice of pharmacy.

13 f. Section 4113(c), (formerly known as section
14 4386(b)) provides, in part, every pharmacy shall notify the
15 Board within 30 days of the date when a pharmacist ceases to
16 be a pharmacist-in-charge.

17 g. Section 4101(a), (formerly known as section
18 4386(d)) provides, in part, that any pharmacist who takes
19 charge of, or acts as pharmacist-in-charge of a pharmacy, or
20 other entity licensed by the Board, who terminates his or
21 her employment at that entity, shall notify the Board of
22 that fact within 30 days of termination.

23 h. Section 125.3 provides, in part, that the Board
24 may request the administrative law judge to direct any
25 licentiate found to have committed a violation or violations
26 of the licensing act, to pay the Board a sum not to exceed

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1 the reasonable costs of the investigation and
2 enforcement of the case.

3 7. This accusation is made in reference to the
4 following regulations of the California Code of Regulations
5 (formerly the California Administrative Code), title 16:

6 a. Section 1717(b) provides, in part, that
7 information regarding the date a prescription is
8 dispensed, the name of the dispensing pharmacist, brand
9 name of the drug, and a record of each refill shall be
10 maintained for each prescription on file and shall be
11 readily retrievable.

12 FACTS

13 8. Respondents are subject to disciplinary action on
14 account of the following:

15 a. On or about April 6, 1995, Sugar Free, a
16 medical device retailer, owned by the same parent
17 corporation as respondent Home, and sharing the same
18 premises, dispensed Novolin 70/30 insulin Penfill cartridges
19 without prescription labels to Medi-Cal patient Jean P.
20 (said patient usually received 10 ml. multidose vials of
21 Novolin 70/30 insulin). Sugar Free dispensed, and billed
22 for, said items, without a pharmacist's verification, using
23 the prescription provider number of respondent Home with
24 Home's knowledge and permission. Neither respondent Home or
25 Sugar Free had a prescription on record for patient Jean P.
26 at the premises they shared. Furthermore, Sugar Free, with
27 the assistance of respondent Home, had dispensed and billed

1 for patient Jean P's prescription in this manner on a
2 monthly basis from approximately May, 1994 until May, 1995.

3 b. In response to a complaint from patient Jean
4 P., Pharmacy Inspector Quandt, on or about May 16, 1995,
5 went to the premises shared by Sugar Free and respondent
6 Home and requested pharmacy information from respondent Home
7 regarding the above transaction. Respondent Wasserman told
8 Quandt that all information pertaining to ordering and
9 billing, including that for patient Jean P., was kept at the
10 respondent home's home office in Virginia, and that no
11 records were kept on the premises. Patient Jean P's records
12 were later sent from Virginia to respondent Home's premises.

13 c. On or about May 16, 1995, Quandt was told by
14 respondent Wasserman that he had replaced respondent Kaufman
15 as pharmacist-in-charge of respondent Home on December 1,
16 1994. Quandt confirmed that, as of May 16, 1995, no
17 notification of this change had been received by the Board.

18 9. As a result of the conduct described in paragraph
19 8(a), above, respondent Home violated Code section 4301(g) by
20 aiding and abetting the knowing making of billing, and other,
21 documents which falsely represented that a prescription for
22 patient Jean P. had been dispensed by respondent Home, when in
23 fact, it had been dispensed by Sugar Free.

24 10. As a result of the conduct described in paragraph
25 8(a) and (b), above, respondents Home, Kaufman, and Wasserman
26 violated Code section 4081, and 16 CCR section 1717(b), by aiding
27 and abetting the failure of Sugar Free to keep prescription

1 records on the premises and make them available for inspection
2 during business hours.

3 11. As a result of the conduct described in paragraph
4 8(c), above, respondent Home violated Code section 4113(c) by
5 failing to notify the Board within 30 days after respondent
6 Kaufman ceased to be pharmacist-in-charge on November 30, 1994.

7 12. As a result of the conduct described in paragraph
8 8(c), above, respondent Home violated Code section 4113(a) by
9 failing to notify the Board within 30 days after the designation
10 of respondent Wasserman as the new pharmacist-in charge on
11 December 1, 1994.

12 13. As pharmacists-in-charge, respondents Kaufman and
13 Wasserman are responsible under Code section 4113(b) for the
14 violations committed by respondent Home and described in
15 paragraphs 9 through 12, above.

16 14. As a result of the conduct described in paragraph
17 8(c), above, respondent Kaufman violated Code section 4101(a) by
18 failing to notify the Board within 30 days of the termination of
19 her employment with respondent Home.

20 **PRAYER**

21 WHEREFORE, complainant requests that the Board hold a
22 hearing on the matters alleged herein, and that following said
23 hearing, the Board issue a decision:

24 1. Revoking or suspending Original Pharmacy Permit
25 No. PHY 37429, heretofore issued to respondent
26 Universal Self Care Inc., dba Home Therapy
27 Services Co-op;

2. Revoking or suspending Original Licentiate No. RPH 33408, heretofore issued to Rosenberg Ettie Kaufman;
3. Revoking or suspending Original Licentiate No. RPH 33408, heretofore issued to Paul Meyer Wasserman;
4. Directing respondents Universal Self Care Inc., dba Home Therapy Services Co-op, Rosenberg Ettie Kaufman, and Paul Meyer Wasserman to pay to the Board a reasonable sum for its investigative and enforcement costs of this action; and
5. Taking such other and further action as the Board deems appropriate to protect the public health, safety and welfare.

DATED: 8/7/98

P. J. Harris

Patricia Florian Harris
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California

Complainant

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