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6 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:
12 SANDRA EVE SCHECHTER
9807 Fonte Road
13 Cypress, CA 90630
Original Licentiate No. RPH 46122,
14
NICHOLAS SOPHINN HUL
15 2548 Baltic Avenue
Long Beach, CA 90810
16 Original Pharmacy Technician No. TCH
12054,
17
BINDLEY WESTERN DRUG
18 542 Covina Boulevard
San Dimas, CA 91773
19 Original Licentiate No. WLS 2351,
20
and
21 SOPHANY KHEM
306 E. Pacific Highway
22 Long Beach, CA 90813
23 Real Party In Interest

Case No. 2161
OAH No. L-2002070092
**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER RE:
RESPONDENT SANDRA
SCHECHTER (PLAGER)**

Respondents.

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25
26 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
27 above-entitled proceedings that the following matters are true:
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1 PARTIES

2 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of
3 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
4 by Bill Lockyer, Attorney General of the State of California, by Lorrie M. Yost, Deputy Attorney
5 General.

6 2. Respondent Sandra Eve Schechter aka Sandra Eve Plager, (Respondent) is
7 represented in this proceeding by attorney John W. Berger, Esq., whose address is 521 Park
8 Avenue, Laguna Beach, California 92651.

9 3. On or about March 24, 1993, the Board of Pharmacy issued Original
10 Licentiate Number No. RPH 46122 to Sandra Eve Schechter (Respondent). The license was in
11 full force and effect at all times relevant to the charges brought in Accusation No. 2161 and will
12 expire on March 31, 2003, unless renewed.

13 JURISDICTION

14 4. Accusation No. 2161 was filed before the Board of Pharmacy (Board) ,
15 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
16 and all other statutorily required documents were properly served on Respondent on January 17,
17 2002. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of
18 Accusation No. 2161 is attached as Exhibit A and incorporated herein by reference.

19 ADVISEMENT AND WAIVERS

20 5. Respondent has carefully read, fully discussed with counsel, and
21 understands the charges and allegations in Accusation No. 2161. Respondent has also carefully
22 read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and
23 Disciplinary Order.

24 6. Respondent is fully aware of her legal rights in this matter, including the
25 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
26 counsel at her own expense; the right to confront and cross-examine the witnesses against her;
27 the right to present evidence and to testify on her own behalf; the right to the issuance of

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1 subpoenas to compel the attendance of witnesses and the production of documents; the right to
2 reconsideration and court review
3 of an adverse decision; and all other rights accorded by the California Administrative Procedure
4 Act and other applicable laws.

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

7 CULPABILITY

8 8. Respondent understands and agrees that the charges and allegations in
9 Accusation No. 2161, if proven at a hearing, constitute cause for imposing discipline upon her
10 Original Licentiate Number.

11 9. For the purpose of resolving the Accusation without the expense and
12 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could
13 establish a prima facie case of negligence for failing to comply with California Business and
14 Professions Code by failing to maintain proper inventory and records, and that Respondent
15 hereby gives up her right to contest those charges. The Board of Pharmacy agrees to dismiss all
16 other allegations and charges alleged in Accusation No. 2161 against Respondent with prejudice.

17 10. Respondent agrees that her Original Pharmacist License is subject to
18 discipline and she agrees to be bound by the Board of Pharmacy's imposition of discipline as set
19 forth in the Disciplinary Order below.

20 RESERVATION

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

25 CONTINGENCY

26 12. This stipulation shall be subject to approval by the Board of Pharmacy.
27 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
28 Pharmacy may communicate directly with the Board regarding this stipulation and settlement,

ACCEPTANCE

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I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, John W. Berger, Esq. 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: 2/28/03


SANDRA EVE PLAGER,
formerly SANDRA EVE SCHECHTER
Respondent

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

DATED: 3-3-03


JOHN W. BERGER, ESQ.
Attorney for Respondent

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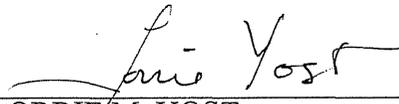
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ENDORSEMENT

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: August 25, 2003.

BILL LOCKYER, Attorney General
of the State of California



LORRIE M. YOST
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:

SANDRA EVE SCHECHTER
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Cypress, CA 90630

Original Licentiate Number No. RPH 46122

Respondent.

Case No. 2161

OAH No. L-2002070092

DECISION AND ORDER

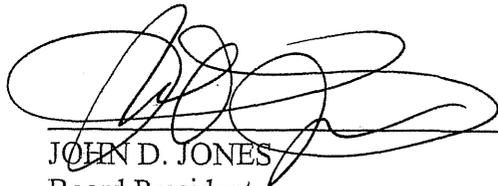
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on November 2, 2003.

It is so ORDERED October 3, 2003.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



JOHN D. JONES
Board President

Exhibit A
Accusation No. 2161

1 BILL LOCKYER, Attorney General
of the State of California
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3 California Department of Justice
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10 **STATE OF CALIFORNIA**

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Case No. 2161

12 SANDRA EVE SCHECHTER
9807 Fonte Road
13 Cypress, CA 90630
Original Licentiate No. RPH 46122,

A C C U S A T I O N

14 NICHOLAS SOPHINN HUL
2548 Baltic Avenue
15 Long Beach, CA 90810
Original Pharmacy Technician No. TCH 12054,

16 BINDLEY WESTERN DRUG
542 Covina Boulevard
17 San Dimas, CA 91773
Original Licentiate No. WLS 2351,

18 and

19 SOPHANY KHEM
20 306 E. Pacific Highway
Long Beach, CA 90813
21 Real Party In Interest

22 Respondents.

23
24 Complainant alleges:

25 PARTIES

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

1 the applicant for the denial of the license upon any ground provided by law or to enter an
2 order denying the license upon any such ground.

3 “(b) The suspension, expiration, or forfeiture by operation of law of a license
4 issued by a board in the department, or its suspension, forfeiture, or cancellation by order
5 of the board or by order of a court of law, or its surrender without the written consent of
6 the board, shall not, during any period in which it may be renewed, restored, reissued, or
7 reinstated, deprive the board of its authority to institute or continue a disciplinary
8 proceeding against the licensee upon any ground provided by law or to enter an order
9 suspending or revoking the license or otherwise taking disciplinary action against the
10 licensee on any such ground.

11 “(c) As used in this section, ‘board’ includes an individual who is authorized by
12 any provision of this code to issue, suspend, or revoke a license, and ‘license’ includes
13 ‘certificate,’ ‘registration,’ and ‘permit.’”

14 8. Section 4300 of the Code permits the Board to take disciplinary action to
15 suspend or revoke a license issued by the Board.

16 9. Section 4301 of the Code states:

17 The Board shall take action against any holder of a license who is guilty of
18 unprofessional conduct or whose license has been procured by fraud or misrepresentation or
19 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the
20 following:

21 (a) Gross immorality.

22 (b) Incompetence.

23 (c) Gross negligence.

24 (d) The clearly excessive furnishing of controlled substances in violation of
25 subdivision (a) of Section 11153 of the Health and Safety Code.

26 (e) The clearly excessive furnishing of controlled substances in violation of
27 subdivision (a) of Section 11153.5 of the Health and Safety Code. Factors to be
28 considered in determining whether the furnishing of controlled substances is clearly

1 excessive shall include, but not be limited to, the amount of controlled substances
2 furnished, the previous ordering pattern of the customer (including size and frequency of
3 orders), the type and size of the customer, and where and to whom the customer
4 distributes its product.

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

8 (g) Knowingly making or signing any certificate or other document that falsely
9 represents the existence or nonexistence of a state of facts.

10 (h) The administering to oneself, of any controlled substance, or the use of any
11 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous
12 or injurious to oneself, to a person holding a license under Chapter 9 (commencing with
13 Section 4000) of the Business and Professions Code, or to any other person or to the
14 public, or to the extent that the use impairs the ability of the person to conduct with safety
15 to the public the practice authorized by the license.

16 (i) Except as otherwise authorized by law, knowingly selling, furnishing, giving
17 away, or administering or offering to sell, furnish, give away, or administer any
18 controlled substance to an addict.

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

21 (k) The conviction of more than one misdemeanor or any felony involving the
22 use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or
23 any combination of those substances.

24 (l) The conviction of a crime substantially related to the qualifications, functions,
25 and duties of a licensee under Chapter 9 (commencing with Section 4000) of the Business
26 and Professions Code. The record of conviction of a violation of Chapter 13
27 (commencing with Section 801) of Title 21 of the United States Code regulating
28 controlled substances or of a violation of the statutes of this state regulating controlled

1 substances or dangerous drugs shall be conclusive evidence of unprofessional conduct.
2 In all other cases, the record of conviction shall be conclusive evidence only of the fact
3 that the conviction occurred. The board may inquire into the circumstances surrounding
4 the commission of the crime, in order to fix the degree of discipline or, in the case of a
5 conviction not involving controlled substances or dangerous drugs, to determine if the
6 conviction is of an offense substantially related to the qualifications, functions, and duties
7 of a licensee under Chapter 9 (commencing with Section 4000) of the Business and
8 Professions Code. A plea or verdict of guilty or a conviction following a plea of nolo
9 contendere is deemed to be a conviction within the meaning of this provision. The board
10 may take action when the time for appeal has elapsed, or the judgment of conviction has
11 been affirmed on appeal or when an order granting probation is made suspending the
12 imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the
13 Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of
14 not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information,
15 or indictment.

16 (m) The cash compromise of a charge of violation of Chapter 13 (commencing
17 with Section 801) of Title 21 of the United States Code regulating controlled substances.
18 The record of the compromise is conclusive evidence of unprofessional conduct.

19 (n) The revocation, suspension, or other discipline by another state of a license to
20 practice pharmacy, operate a pharmacy, or do any other act for which a license is required
21 by Chapter 9 (commencing with Section 4000) of the Business and Professions Code.

22 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
23 abetting the violation of or conspiring to violate any provision or term of Chapter 9
24 (commencing with Section 4000) of the Business and Professions Code or of the
25 applicable federal and state laws and regulations governing pharmacy, including
26 regulations established by the board.

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

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1 (q) Engaging in any conduct that subverts or attempts to subvert an investigation
2 of the board.

3 10. Section 4081 of the Code states:

4 (a) All records of manufacture and of sale, acquisition, or disposition of dangerous
5 drugs or dangerous devices shall be at all times during business hours open to inspection
6 by authorized officers of the law, and shall be preserved for at least three years from the
7 date of making. A current inventory shall be kept by every manufacturer, wholesaler,
8 pharmacy, medical device retailer, veterinary food-animal drug retailer, physician,
9 dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution, or establishment
10 holding a currently valid and unrevoked certificate, license, permit, registration, or
11 exemption under Division 2 (commencing with Section 1200) of the Health and Safety
12 Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and
13 Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

14 (b) The owner, officer, and partner of any pharmacy, wholesaler, veterinary
15 food-animal drug retailer, or medical device retailer shall be jointly responsible, with the
16 pharmacist-in-charge or exemptee, for maintaining the records and inventory described in
17 this section.

18 (c) The pharmacist-in-charge or exemptee shall not be criminally responsible for
19 acts of the owner, officer, partner, or employee that violate this section and of which the
20 pharmacist-in-charge or exemptee had no knowledge, or in which he or she did not
21 knowingly participate.

22 11. Section 4160 of the Code states:

23 (a) No person shall act as a wholesaler of any dangerous drug or dangerous device
24 unless he or she has obtained a license from the board. Upon approval by the board and
25 the payment of the required fee, the board shall issue a license to the applicant.

26 (b) No selling or distribution outlet, located in this state, of any out-of-state
27 manufacturer, that has not obtained a license from the board, that sells or distributes only
28 the dangerous drugs or the dangerous devices of that manufacturer, shall sell or distribute

1 any dangerous drug or dangerous device in this state without obtaining a wholesaler's
2 license from the board.

3 (c) A separate license shall be required for each place of business owned or
4 operated by a wholesaler. Each license shall be renewed annually and shall not be
5 transferable.

6 12. Section 4163 of the Code provides that no manufacturer or wholesaler
7 shall furnish dangerous drugs or dangerous devices to any unauthorized person.

8 13. Section 4113(b) of the Code provides that the pharmacist-in-charge shall
9 be responsible for a pharmacy's compliance with all state and federal laws and regulations
10 pertaining to the practice of pharmacy.

11 14. Section 125.3 of the Code states, in pertinent part, that the Board may
12 request the administrative law judge to direct a licensee found to have committed a violation or
13 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
14 and enforcement of the case.

15 CAUSE FOR DISCIPLINE

16 (Unprofessional conduct)

17 15. Respondents Hul and Khem are subject to discipline pursuant to Code
18 section 4300, for unprofessional conduct as that section relates to Code sections 4201(b) and (f),
19 Health and Safety Code section 11128 and Title 16 California Code of Regulations section 1709,
20 as well as Code sections 4301(j), (n), and (o), for failing to report to the Board within 30 days
21 upon a form provided by the Board that ownership of Raymond Pharmacy had passed from Hul
22 to Khem sometime between August 16, 1994 and August 12, 1997.

23 16. Respondents Schechter, Hul and Khem are subject to discipline pursuant
24 to Code section 4300, for unprofessional conduct within the meaning of Code section 4081(a), as
25 well as Code sections 4301(j), (n), and (o), based on the following facts. On July 9, 1997, Board
26 investigators requested acquisition and disposition records, as well as prescription logs and BID
27 contract documents from Raymond Pharmacy and 5K Warehouse for the period beginning
28 March 1, 1996 to March 1, 1997. Board investigators also requested invoices, credits and proof

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

DATED: 12/28/01

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

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