

1 BILL LOCKYER, Attorney General  
of the State of California  
2 MICHEL W. VALENTINE, State Bar No. 153078  
Deputy Attorney General  
3 California Department of Justice  
300 South Spring Street, Suite 1702  
4 Los Angeles, California 90013  
Telephone: (213) 897-1034  
5 Facsimile: (213) 897-2804  
6 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:  
12 CLIFFORD YAMASHITA and  
NORMAN MAEHARA, doing business as  
13 MEIJI PHARMACY  
1620 West Redondo Beach Blvd.  
14 Gardena, CA 90247  
Clifford Yamashita, Partner  
15 Norman Maehara, Partner  
Pharmacy Permit No. PHY 38219  
16  
17 Respondent.

Case No. 2313  
OAH No. L-2000120405  
**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER AS TO  
MEIJI PHARMACY ONLY**

18  
19 In the interest of a prompt and speedy settlement of this matter, consistent with  
20 the public interest and the responsibility of the Board of Pharmacy of the Department of  
21 Consumer Affairs, ("Board"), the parties hereby agree to the following Stipulated Settlement and  
22 Disciplinary Order which will be submitted to the Board for its approval and adoption as the  
23 final disposition of the Accusation solely with respect to Meiji Pharmacy. It does not apply to  
24 Respondent Clifford Kunio Yamashita or Norman Atsuto Maehara.

25 PARTIES

26 1. Complainant Patricia F. Harris is the Executive Officer of the Board of  
27 Pharmacy. She brought this action solely in her official capacity and is represented in this matter

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1 by Bill Lockyer, Attorney General of the State of California, by Michel W. Valentine,  
2 Deputy Attorney General.

3 2. Respondent Meiji Pharmacy ("Respondent") is represented in this  
4 proceeding by attorney Herbert I. Weinberg, Esq., whose address is 1620 26<sup>th</sup> Street, Suite 6000  
5 N, Santa Monica, California 90404.

6 3. On or about October 22, 1992, the Board of Pharmacy issued Pharmacist  
7 Permit License Number PHY 38219 to Meiji Pharmacy ("Respondent"). The Pharmacy Permit  
8 was in full force and effect at all times relevant to the charges brought and will expire on October  
9 1, 2001, unless renewed. The corporate officers are Clifford Yamashita, RPH 29009, Partner and  
10 Norman Maehara, RPH 29045, Partner since October 22, 1992. Clifford Yamashita has been the  
11 Pharmacist-in-Charge since October 22, 1992.

#### 12 JURISDICTION

13 4. Accusation No. 2313, was filed before the Board of Pharmacy of the  
14 Department of Consumer Affairs, ("Board"), and is currently pending against Respondent. The  
15 Accusation, together with all other statutorily required documents, was duly served on  
16 Respondent on December 8, 2000, and Respondent timely filed its Notice of Defense contesting  
17 the Accusation. A copy of Accusation No. 2313 is attached as Exhibit A and incorporated herein  
18 by reference.

#### 19 ADVISEMENT AND WAIVERS

20 5. Respondent has carefully read and discussed with its counsel the nature of  
21 the charges and allegations in the Accusation and the effects of this Stipulated Settlement and  
22 Disciplinary Order.

23 6. Respondent is fully aware of its legal rights in this matter, including the  
24 right to a hearing on the charges and allegations in the Accusation, the right to be represented by  
25 counsel, at its own expense, the right to confront and cross-examine the witnesses against them,  
26 the right to present evidence and to testify on its own behalf, the right to the issuance of  
27 subpoenas to compel the attendance of witnesses and the production of documents, the right to  
28 reconsideration and court review of an adverse decision, and all other rights accorded by the

1 California Administrative Procedure Act and other applicable laws.

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

4 CULPABILITY

5 8. Respondent understands that the charges and allegations in the  
6 Accusation, if proven at a hearing, constitute cause for imposing discipline upon its Pharmacy  
7 Permit Number.

8 9. For purposes of resolving Accusation No. 2313 without the expense and  
9 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could  
10 establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up  
11 his right to contest those charges.

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

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

17 CONTINGENCY

18 12. This stipulation shall be subject to the approval of the Board. Respondent  
19 understands and agrees that Board of Pharmacy's staff and counsel for Complainant may  
20 communicate directly with the Board regarding this stipulation and settlement, without notice to  
21 or participation by Respondent or its counsel. If the Board fails to adopt this stipulation as its  
22 Order, except for this paragraph the Stipulated Settlement and Disciplinary Order shall be of no  
23 force or effect, it shall be inadmissible in any legal action between the parties, and the Board  
24 shall not be disqualified from further action by having considered this matter.

25 13. The parties agree that facsimile copies of this Stipulated Settlement and  
26 Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as  
27 the original Stipulated Settlement and Disciplinary Order and signatures.

28 ///



1            If respondent fails to pay the costs as specified by the Board and on or before the  
2 date(s) determined by the Board, the Board shall, without affording the respondent notice and  
3 the opportunity to be heard, revoke probation and carry out the disciplinary order that was  
4 stayed.

5            **6. Probation Monitoring Costs**

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

10           **7. Status of License**

11           Respondent shall, at all times while on probation, maintain an current  
12 license with the Board. If respondent submits an application to the Board, and the application is  
13 approved, for a change of location, change or permit or change of ownership, the Board shall  
14 retain continuing jurisdiction over the license, and the respondent shall remain on probation as  
15 determined by the Board or its designee.

16           **8. Notice to Employees**

17           Respondent shall, upon or before the effective date of this decision, ensure that all  
18 employees involved in permit operations are made aware of all the terms and conditions of  
19 probation, either by posting a notice of the conditions of the terms and conditions, circulating  
20 such notice, or both. If the notice required by this provision is posted, it shall be posted in a  
21 prominent place and shall remain posted throughout probation. Respondent shall ensure that any  
22 employees hired or used after the effective date of this decision are made aware of all the terms  
23 and conditions by posting a notice, circulating a notice, or both. "Employees" as used in this  
24 provision includes all full-time, part-time, temporary and relief employees and independent  
25 contractors employed or hired at any time during probation.

26           **9. Owners and Officers: Knowledge of the Law**

27           Respondent shall provide, within thirty (30) days after the effective date of this  
28 decision, signed and dated statements from its owners, including any owner or holder of 10%

1 or more of the interest in respondent or respondent's stock, and any officer, stating said  
2 individuals have read and are familiar with federal and state laws and regulations governing  
3 the practice of pharmacy.

4 **10. Violation of Probation**

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

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

15 **11. Completion of Probation**

16 Upon successful completion of probation, respondent's license will be fully  
17 restored.

18 ACCEPTANCE

19 I have carefully read the above Stipulated Settlement and Disciplinary Order and  
20 have fully discussed the terms and conditions and other matters contained therein with my  
21 attorney Herbert I. Weinberg, Esq., I understand the effect this stipulation will have on my  
22 Pharmacist Permit Number. I enter into this Stipulated Settlement voluntarily, knowingly and  
23 intelligently and agree to be bound by the Disciplinary Order and Decision of the Board of  
24 Pharmacy. I further agree that a facsimile copy of this Stipulated Settlement and Disciplinary

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26 ///

27 ///

28 ///

1 Order, including facsimile copies of signatures, may be used with the same force and effect as  
2 the originals.

3 DATED: 7-9-01

4   
5 Clifford Yamashita for MEIJI PHARMACY  
6 Respondent

7  
8 I have read and fully discussed with Respondent Meiji Pharmacy the terms and  
9 conditions and other matters contained in the above Stipulated Settlement and Disciplinary  
10 Order. I approve its form and content.

11 DATED: 7/9/01

12   
13 HERBERT I. WEINBERG, ESQ.  
14 Attorney for Respondent

15  
16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
18 submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

19  
20 DATED: 8/9/01

21 BILL LOCKYER, Attorney General  
22 of the State of California

23   
24 MICHEL W. VALENTINE  
25 Deputy Attorney General  
26 Attorneys for Complainant

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

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CLIFFORD YAMASHITA and  
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Clifford Yamashita, Partner  
Norman Maehara, Partner  
Pharmacy Permit No. PHY 38219

Respondent.

Case No. 2313

OAH No. L-2000120405

**DECISION AND ORDER**

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

This Decision shall become effective on December 15, 2001.

It is so ORDERED November 14, 2001.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

  
\_\_\_\_\_  
STEVE LITSEY  
Board President

1 BILL LOCKYER, Attorney General  
of the State of California  
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**BEFORE THE  
BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2313

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13 NORMAN MAEHARA, doing business as  
MEIJI PHARMACY  
14 1620 West Redondo Beach Blvd.  
Gardena, CA 90247  
15 Clifford Yamashita, Partner  
Norman Maehara, Partner  
16 Pharmacy Permit Number No. PHY 38219,

**ACCUSATION**

17

and

18

CLIFFORD KUNIO YAMASHITA  
2260 Santa Fe  
19 Torrance CA 90501  
Pharmacist License Number No. RPH 29009,

20

and

21

NORMAN ATSUTO MAEHARA  
3 Dorado Place  
22 Rolling Hills Estate, CA 90274  
Pharmacist License Number No. RPH 29045

23

24

Respondents

25

26

Complainant alleges:

27

PARTIES

28

1. Patricia F. Harris ("Complainant") brings this accusation solely in her



1 regulating controlled substances and dangerous drugs.

2 (o) Violating or attempting to violate, directly or indirectly, or assisting in or  
3 abetting the violation of, or conspiring to violate any provision or term of this chapter or  
4 of the applicable federal and state laws and regulations governing pharmacy, including  
5 regulations established by the Board, constitutes unprofessional conduct.

6 8. Section 4059 of the Code states, in pertinent part, that no person shall  
7 furnish any dangerous drug upon the prescription of a physician, dentist, podiatrist, or  
8 veterinarian. No person shall furnish any dangerous device, except upon the prescription of a  
9 physician, dentist, podiatrist, optometrist, or veterinarian.

10 9. Section 4059.5(e) of the Code states, in pertinent part, that a dangerous  
11 drug shall not be transferred, sold, or delivered to any person outside this state, whether foreign  
12 or domestic, unless the transfer, seller, or deliver does so in compliance with the laws of this state  
13 and of the United States and of the state or country to which the drugs are to be transferred, sold,  
14 or delivered.

15 10. Section 4081(a) of the Code states, in pertinent part, that all records of  
16 manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices  
17 shall be at all times during business hours open to inspection by authorized officers of the law,  
18 and shall be preserved for at least three years from the date of making.

19 11. Section 4332 of the Code states that any person who fails, neglects, or  
20 refuses to maintain the records required by Section 4081 or who, when called upon by an  
21 authorized officer or a member of the board fails, neglects, or refuses to produce or provide the  
22 records within a reasonable time, or who willfully produces or furnishes records that are false, is  
23 guilty of a misdemeanor.

24 12. Section 118 of the Code states, in pertinent part, that:

25 (b) The suspension, expiration, or forfeiture by operation of law of a license  
26 issued by a board in the department, or its suspension, forfeiture, or cancellation by order  
27 of the board or by order of a court of law, or its surrender without the written consent of  
28 the board, shall not, during any period in which it may be renewed, restored, reissued, or

1 reinstated, deprive the board of its authority to institute or continue a disciplinary  
2 proceeding against the licensee upon any ground provided by law or to enter an order  
3 suspending or revoking the license or otherwise taking disciplinary action against the  
4 licensee on any such ground.

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

9 14. DANGEROUS DRUG

10 A. "Viagra", a brand name for the generic drug Sildenafil Citrate is  
11 categorized as a dangerous drug pursuant to section 4022 of the Code.

12  
13 FIRST CAUSE FOR DISCIPLINE

14 (Violating Statutes of this State)

15 15. Respondents are subject to disciplinary action under sections 4300 and  
16 4301 (j) on the grounds of unprofessional conduct for violating section 4059.5(e). On or about  
17 August 3, 1998, an audit was conducted by an inspector for the Board. The audit revealed that  
18 from on or about August 6, 1998 to on or about September 2, 1998, Respondent dispensed  
19 approximately 93,660 Viagra tablets illegally to individuals living in Japan. During the audit,  
20 the inspector discovered that Respondents were receiving fax requests for the drug Viagra  
21 directly from Japan. Respondents would then prepare an airbill for each request and package the  
22 Viagra for shipment pursuant to the instructions on the fax request. The drug, Viagra, has not  
23 been approved by Japan and it is not legal to import the drug into Japan.

24  
25 SECOND CAUSE FOR DISCIPLINE

26 (Dispensing Drugs Without Prescription)

27 16. Respondents are further subject to disciplinary action under sections 4300  
28 and 4301(o) of the Code for violating section 4059. From on or about August 6, 1998 to on or

1 about September 2, 1998, Respondent dispensed Viagra tablets without prescriptions.  
2 Respondent dispensed the drug solely from each fax request received from Japan and prepared an  
3 airbill for shipment.

4  
5 THIRD CAUSE FOR DISCIPLINE

6 (Failure to Maintain Current Records)

7 17. Respondents are further subjected to disciplinary action under sections  
8 4300 and 4301(o) of the Code on the grounds of unprofessional conduct for violating sections  
9 4081(a) of the Code in conjunction with section 1718 of Title 16, California Code of  
10 Regulations, for failing to keep a complete, accurate, and current inventory or complete  
11 accountability of dangerous drugs for three (3) years. Respondent did not have prescriptions  
12 documents for the dispensing of the drug, Viagra, only airbills and, therefore, was unable to  
13 know what strengths were dispensed.

14 18. Respondents are further subject to disciplinary action under sections 4300  
15 and 4301(o) of the Code on the grounds of unprofessional conduct for violating sections 4332.  
16 On August 3, 1998, an investigator for the Board requested copies of acquisition and disposition  
17 records for all strengths of Viagra for the last year. Respondent submitted disposition records  
18 but failed to submit acquisitions record from Respondent Pharmacy.

19  
20 OTHER MATTERS

21 13. Business and Professions Code section 4307 provides, in pertinent part, that  
22 any person whose license or permit has been revoked or is under suspension, or who has been  
23 placed on probation, and while acting as the manager, administrator, owner, member, officer,  
24 director, associate, or partner has knowledge of or knowingly participated in any conduct for  
25 which the license was denied, revoked, suspended, or placed on probation, shall be prohibited  
26 from serving as a manager, administrator, owner, member, officer, director, associate, or partner  
27 of a licensee.

28



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17 and  
18 CLIFFORD KUNIO YAMASHITA  
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20 and  
21 NORMAN ATSUTO MAEHARA  
3 Dorado Place  
22 Rolling Hills Estate, CA 90274  
23 Pharmacist License Number No. RPH 29045  
24 Respondents

Case No. 2313

**ACCUSATION**

25  
26 Complainant alleges:

27 PARTIES

28 1. Patricia F. Harris ("Complainant") brings this accusation solely in her

1 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer  
2 Affairs.

3           2.       On October 22, 1992, the Board of Pharmacy issued Pharmacist Permit  
4 Number PHY 38219 to Clifford Yamashita and Norman Maehara, to do business as Meiji  
5 Pharmacy ("Respondent Pharmacy"). The Pharmacist Permit was in full force and effect at all  
6 times relevant to the charges brought herein and will expire on October 1, 2001, unless renewed.  
7 The corporate officers are Clifford Yamashita, RPH 29009, Partner and Norman Maehara, RPH  
8 29045, Partner since October 22, 1992. Clifford Yamashita, has been the Pharmacist-in-Charge  
9 since October 22, 1992.

10           3.       On July 17, 1974, the Board of Pharmacy issued Pharmacist License  
11 Number RPH 29009 to Clifford Kunio Yamashita ("Respondent Yamashita"). The Pharmacist  
12 License was in full force and effect at all times relevant to the charges brought herein and will  
13 expire on July 31, 2002, unless renewed.

14           4.       On July 17, 1974, the Board of Pharmacy issued Pharmacist License  
15 Number RPH 29045 to Norman Atsuto Maehara ("Respondent Maehara"). The Pharmacist  
16 License was in full force and effect at all times relevant to the charges brought herein and will  
17 expire on January 31, 2002, unless renewed.

18

19

#### JURISDICTION

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

22           6.       Section 4300 of the Code permits the Board to take disciplinary action to  
23 suspend or revoke a license issued by the Board.:

24           7.       Section 4301 of the Code states that the Board shall take action against  
25 any holder of a license who is guilty of unprofessional conduct or whose license has been  
26 procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall  
27 include, but is not limited to, any of the following:

28           (j) The violation of any of the statutes of this state or of the United States

1 regulating controlled substances and dangerous drugs.

2 (o) Violating or attempting to violate, directly or indirectly, or assisting in or  
3 abetting the violation of, or conspiring to violate any provision or term of this chapter or  
4 of the applicable federal and state laws and regulations governing pharmacy, including  
5 regulations established by the Board, constitutes unprofessional conduct.

6 8. Section 4059 of the Code states, in pertinent part, that no person shall  
7 furnish any dangerous drug upon the prescription of a physician, dentist, podiatrist, or  
8 veterinarian. No person shall furnish any dangerous device, except upon the prescription of a  
9 physician, dentist, podiatrist, optometrist, or veterinarian.

10 9. Section 4059.5(e) of the Code states, in pertinent part, that a dangerous  
11 drug shall not be transferred, sold, or delivered to any person outside this state, whether foreign  
12 or domestic, unless the transfer, seller, or deliver does so in compliance with the laws of this state  
13 and of the United States and of the state or country to which the drugs are to be transferred, sold,  
14 or delivered.

15 10. Section 4081(a) of the Code states, in pertinent part, that all records of  
16 manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices  
17 shall be at all times during business hours open to inspection by authorized officers of the law,  
18 and shall be preserved for at least three years from the date of making.

19 11. Section 4332 of the Code states that any person who fails, neglects, or  
20 refuses to maintain the records required by Section 4081 or who, when called upon by an  
21 authorized officer or a member of the board fails, neglects, or refuses to produce or provide the  
22 records within a reasonable time, or who willfully produces or furnishes records that are false, is  
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24 12. Section 118 of the Code states, in pertinent part, that:

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26 issued by a board in the department, or its suspension, forfeiture, or cancellation by order  
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28 the board, shall not, during any period in which it may be renewed, restored, reissued, or

1 reinstated, deprive the board of its authority to institute or continue a disciplinary  
2 proceeding against the licensee upon any ground provided by law or to enter an order  
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5 13. Section 125.3 of the Code states, in pertinent part, that the Board may  
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9 14. DANGEROUS DRUG

10 A. "Viagra", a brand name for the generic drug Sildenafil Citrate is  
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18 from on or about August 6, 1998 to on or about September 2, 1998, Respondent dispensed  
19 approximately 93,660 Viagra tablets illegally to individuals living in Japan. During the audit,  
20 the inspector discovered that Respondents were receiving fax requests for the drug Viagra  
21 directly from Japan. Respondents would then prepare an airbill for each request and package the  
22 Viagra for shipment pursuant to the instructions on the fax request. The drug, Viagra, has not  
23 been approved by Japan and it is not legal to import the drug into Japan.

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3 airbill for shipment.

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7 17. Respondents are further subjected to disciplinary action under sections  
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9 4081(a) of the Code in conjunction with section 1718 of Title 16, California Code of  
10 Regulations, for failing to keep a complete, accurate, and current inventory or complete  
11 accountability of dangerous drugs for three (3) years. Respondent did not have prescriptions  
12 documents for the dispensing of the drug, Viagra, only airbills and, therefore, was unable to  
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17 records for all strengths of Viagra for the last year. Respondent submitted disposition records  
18 but failed to submit acquisitions record from Respondent Pharmacy.

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22 any person whose license or permit has been revoked or is under suspension, or who has been  
23 placed on probation, and while acting as the manager, administrator, owner, member, officer,  
24 director, associate, or partner has knowledge of or knowingly participated in any conduct for  
25 which the license was denied, revoked, suspended, or placed on probation, shall be prohibited  
26 from serving as a manager, administrator, owner, member, officer, director, associate, or partner  
27 of a licensee.

28

