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

11 In the Matter of the Petition to Revoke Probation
12 Against:

Case No. 3799

13 **OSCAR KRINSKY**
14 **6002 Lido Lane**
Long Beach, California 90803

PETITION TO REVOKE PROBATION

15 **Pharmacist License No. RPH 21664**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this Petition to Revoke Probation solely in her
21 official capacity as Executive Officer, Board of Pharmacy, Department of Consumer Affairs.

22 2. On or about July 22, 1960, the Board of Pharmacy issued original Pharmacist License
23 Number RPH 21664 to Oscar Krinsky (Respondent). The License was in effect at all times
24 relevant to the charges brought herein and will expire on November 30, 2010, unless renewed.

25 3. In a disciplinary action entitled "In the Matter of the Accusation Against Oscar
26 Krinsky," Case No. 2460, the Board of Pharmacy issued a decision, effective March 26, 2003,
27 revoking Respondent's Pharmacist License. Revocation was stayed and Respondent was placed
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1 on probation for a period of three (3) years with certain terms and conditions. A copy of that
2 decision is attached as Exhibit A and is incorporated by reference.

3 **JURISDICTION**

4 4. This Petition to Revoke Probation is brought before the Board of Pharmacy (Board),
5 Department of Consumer Affairs, under the authority of the following laws. All section
6 references are to the Business and Professions Code unless otherwise indicated.

7 5. Section 118 provides, in pertinent part, that the suspension or expiration of a license
8 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
9 within which the license may be renewed, restored, reissued, or reinstated.

10 6. Section 4011 of the Code provides that the Board shall administer and enforce both
11 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
12 Act [Health & Safety Code, § 11000 et seq.].

13 7. Section 4300 states, in pertinent part:

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

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16 “(d) The board may initiate disciplinary proceedings to revoke or suspend any
17 probationary certificate of licensure for any violation of the terms and conditions of probation.”

18 **FACTUAL BACKGROUND**

19 8. In a disciplinary action entitled “In the Matter of the Accusation Against Leader Drug
20 and Oscar J Krinsky”, Case No. 2460, the Board issued a Decision, effective March 26, 2003, in
21 which Respondent’s Pharmacist License was revoked. However, the revocation was stayed and
22 Respondent’s Pharmacist License was placed on probation for three (3) years subject to Terms
23 and Conditions as set forth in the Decision and Order, including the requirements that Respondent
24 shall report to the Board or its designee quarterly and shall not remain tolled from probation for a
25 period exceeding three years.

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1 FIRST CAUSE TO REVOKE PROBATION

2 (Failure to Report Quarterly to the Board)

3 9. At all times after the effective date of the Decision and Order imposing probation
4 on Respondent's License, Term and Condition 4 of that Order stated:

5 "Reporting to the Board. Respondent Krinsky shall report to the Board quarterly. The
6 report shall be made either in person or in writing, as directed. Probationer shall state under
7 penalty of perjury whether there has been compliance with all the terms and conditions of
8 probation. If the final probation report is not made as directed, probation shall be extended
9 automatically until such time as the final report is made and accepted by the Board."

10 10. Respondent's probation is subject to revocation because he failed to comply with
11 Term and Condition 4 of that probation, listed above, in that Respondent failed to submit timely
12 quarterly reports to the Board; his last report of any kind was dated July 22, 2005.

13 SECOND CAUSE TO REVOKE PROBATION

14 (Tolling of Probation for Period Exceeding Three Years)

15 11. At all times after the effective date of the Decision and Order imposing probation on
16 Respondent's License, Term and Condition 15 of that Order stated:

17 "Tolling of Probation. Should Respondent Krinsky, regardless of residency, for any reason
18 cease practicing pharmacy for a minimum of 8 hours per calendar month in California,
19 Respondent must notify the Board in writing within 10 days of cessation of the practice of
20 pharmacy or the resumption of the practice of pharmacy. Such periods of time shall not apply to
21 the reduction of the probation period. It is a violation of probation for Respondent's probation to
22 remain tolled pursuant to the provisions of this condition for a period exceeding three consecutive
23 years.

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

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Exhibit A

Decision and Order

Board of Pharmacy Case No. 2460

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

In the Matter of the Accusation Against:

LEADER DRUG
152 Pine Avenue
Long Beach, California 90802
OSCAR J. KRINSKY
Pharmacist-in-Charge
Pharmacy Permit No. PHY 20927

OSCAR J. KRINSKY
6002 Lido Lane
Long Beach, California 90803
Pharmacist License No. RPH 21664

Respondents.

Case No. 2460

OAH No. L-2002060673

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 March 26, 2003.

It is so ORDERED February 24, 2003.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By


JOHN D. JONES
Board President

California State Board of Pharmacy
Executive Office
ALBANY HEROLD

DATED:

OF THE FILE IN THE OFFICE
CORRECT COPIES OF THE ORIGINALS
AND THESE DOCUMENTS IS TO BE MADE AND
OF THE RECORDS DO HEREBY CERTIFY THAT
ALBANY HEROLD EXECUTIVE OFFICE
STATE OF CALIFORNIA

1 BILL LOCKYER, Attorney General
of the State of California
2 CHRISTOPHER J. RUIZ, State Bar No. 165017
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6 Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 2460

11 LEADER DRUG
152 Pine Avenue
12 Long Beach, California 90802
OSCAR J. KRINSKY
13 Pharmacist-in-Charge
Pharmacy Permit No. PHY 20927

OAH No. L-2002060673

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 OSCAR J. KRINSKY
15 6002 Lido Lane
Long Beach, California 90803
16 Pharmacist License No. RPH 21664

17 Respondents.

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19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
20 above-entitled proceedings that the following matters are true:

21 PARTIES

22 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of
23 Pharmacy (Board), Department of Consumer Affairs. She brought this action solely in her
24 official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State
25 of California, by Christopher J. Ruiz, Deputy Attorney General.

26 2. Respondent Leader Drug (Respondent Leader) and Respondent Oscar
27 Krinsky (Respondent Krinsky) are represented in this proceeding by attorney Ronald S. Marks,
28 Esq., whose address is Trillium Tower East #1550, 6320 Canoga Ave., Woodland Hills, CA

1 91367.

2 3. On or about October 16, 1979, the Board issued Original Pharmacy Permit
3 Number PHY 20927 to Respondent Krinsky and Harrie Krinsky to do business as Leader Drug.
4 Respondent Krinsky has been the pharmacist-in-charge since August 1, 1995.

5 4. On or about July 22, 1960, the Board issued Original Pharmacist License
6 Number RPH 21664 to Respondent Krinsky.

7 JURISDICTION

8 5. Accusation No. 2460 was filed before the Board, and is currently pending
9 against Respondent Leader and Respondent Krinsky (Respondents). The Accusation and all
10 other statutorily required documents were properly served on Respondents on April 11, 2002.
11 Thereafter, a First Amended Accusation and all other statutorily required documents were
12 properly served on Respondents on August 5, 2002. Respondents timely filed a Notice of
13 Defense contesting the Accusation. A copy of the First Amended Accusation No. 2460 is
14 attached as exhibit A and incorporated herein by reference.

15 ADVISEMENT AND WAIVERS

16 6. Respondents have carefully read, fully discussed with counsel, and
17 understand the charges and allegations in the First Amended Accusation No. 2460. Respondents
18 have also carefully read, fully discussed with counsel, and understand the effects of this
19 Stipulated Settlement and Disciplinary Order.

20 7. Respondents are fully aware of their legal rights in this matter, including
21 the right to a hearing on the charges and allegations in the First Amended Accusation; the right to
22 be represented by counsel at their own expense; the right to confront and cross-examine the
23 witnesses against them; the right to present evidence and to testify on their own behalf; the right
24 to the issuance of subpoenas to compel the attendance of witnesses and the production of
25 documents; the right to reconsideration and court review of an adverse decision; and all other
26 rights accorded by the California Administrative Procedure Act and other applicable laws.

27 8. Respondents voluntarily, knowingly, and intelligently waive and give up
28 each and every right set forth above.

1 laws and regulations substantially related to or governing the practice of pharmacy.

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

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

14 **4. Reporting to the Board.** Respondent Krinsky shall report to the Board
15 quarterly. The report shall be made either in person or in writing, as directed. Respondent
16 shall state under penalty of perjury whether there has been compliance with all the terms and
17 conditions of probation. If the final probation report is not made as directed, probation shall
18 be extended automatically until such time as the final report is made and accepted by the
19 Board.

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

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

5 7. **Continuing Education.** Respondent Krinsky shall provide evidence of
6 efforts to maintain skill and knowledge as a pharmacist as directed by the Board.

7 8. **Notice to Employers.** Respondent Krinsky shall notify all present and
8 prospective employers of the decision in case number 2460 and the terms, conditions and
9 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of
10 this decision, and within 15 days of Respondent undertaking new employment, Respondent
11 shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in
12 writing acknowledging the employer has read the decision in case number 2460.

13 If Respondent works for or is employed by or through a pharmacy employment
14 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at
15 every pharmacy of the and terms conditions of the decision in case number 2460 in advance of
16 the Respondent commencing work at each pharmacy.

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

20 9. **No Preceptorships, Supervision of Interns, Being Pharmacist-in-**
21 **Charge (PIC), or Serving as a Consultant.** Respondent Krinsky shall not supervise any
22 intern pharmacist or perform any of the duties of a preceptor, nor shall Respondent be the
23 pharmacist-in-charge of any entity licensed by the Board unless otherwise specified in this
24 order.

25 10. **Reimbursement of Board Costs.** Respondent shall pay to the Board
26 its costs of investigation and prosecution in the amount of \$10,000.00. Respondent shall
27 make said payments as follows:
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1 Respondent Krinsky will make ^{twenty-nine} ~~thirty~~ (29) payments of three hundred thirty-
2 three dollars and thirty three cents (\$333.33) and (1) payment of three hundred thirty-three
3 dollars and forty-three cents (\$333.43) beginning within thirty (30) days of the effective date
4 of the Decision and Order and payable every month thereafter.

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

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

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

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

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

25 Upon acceptance of the surrender, Respondent shall relinquish his pocket
26 license to the Board within 10 days of notification by the Board that the surrender is accepted.
27 Respondent may not reapply for any license from the Board for three years from the effective
28 date of the surrender. Respondent shall meet all requirements applicable to the license sought

1 as of the date the application for that license is submitted to the Board.

2 14. **Notification of Employment/Mailing Address Change.**

3 Respondent Krinsky shall notify the Board in writing within 10 days of any change of
4 employment. Said notification shall include the reasons for leaving and/or the address of the
5 new employer, supervisor or owner and work schedule if known. Respondent shall notify the
6 Board in writing within 10 days of a change in name, mailing address or phone number.

7 15. **Tolling of Probation.** Should Respondent Krinsky, regardless of

8 residency, for any reason cease practicing pharmacy for a minimum of 8 hours per calendar
9 month in California, Respondent must notify the Board in writing within 10 days of cessation
10 of the practice of pharmacy or the resumption of the practice of pharmacy. Such periods of
11 time shall not apply to the reduction of the probation period. It is a violation of probation for
12 Respondent's probation to remain tolled pursuant to the provisions of this condition for a
13 period exceeding three years.

14 " Cessation of practice " means any period of time exceeding 30 days in which

15 Respondent is not engaged in the practice of pharmacy as defined in Section 4052 of
16 the Business and Professions Code.

17 16. **Violation of Probation.** If Respondent Krinsky violates probation in

18 any respect, the Board, after giving Respondent notice and an opportunity to be heard, may
19 revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke
20 probation or an accusation is filed against Respondent during probation, or if the Board
21 requests the Office of the Attorney General file a petition to revoke probation or an
22 accusation, the Board shall have continuing jurisdiction and the period of probation shall be
23 extended, until the petition to revoke probation or accusation is heard and decided.

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

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

18. **No Ownership of Premises.** Respondent Krinsky 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 Krinsky 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.

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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: 1/9/03

BILL LOCKYER, Attorney General
of the State of California


CHRISTOPHER J. RUIZ
Deputy Attorney General

Attorneys for Complainant

DOJ Docket Number: 03583110-LA2001AD2136