

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

In the Matter of the Petition for
Reinstatement of Pharmacist License by:

KIRK BOLAS
10020 Brentwood Circle
Auburn, CA 95603

Pharmacist License No. RPH 45427

Petitioner.

Case No. 2090

OAH No. N2006040646

DECISION AND ORDER

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

This Decision shall become effective on June 7, 2006.

It is so ORDERED May 31, 2006.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY GOLDENBERG, R.Ph.
Board President

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DECISION

The Board of Pharmacy heard this matter on April 27, 2006, in Sacramento, California. Board members present and participating were Stanley Goldenberg, R.Ph., President; William Powers, Vice President; Marian Balay; Ruth Conroy, Pharm.D.; Clarence Hiura, Pharm.D.; John Jones, R.Ph.; Kenneth H. Schell, Pharm.D.; and Andrea Zinder. Administrative Law Judge Karen J. Brandt, Office of Administrative Hearings, presided.

Char Sachson, Deputy Attorney General, represented the Office of the Attorney General.

Kirk Bolas (petitioner) appeared on his own behalf.

The matter was submitted on April 27, 2006.

FACTUAL FINDINGS

1. On August 11, 1992, the Board of Pharmacy (Board) issued Pharmacist License No. RPH 45427 to petitioner.

2. Effective December 4, 1998, pursuant to a default decision, the Board revoked petitioner's license for issuing false prescriptions to obtain Damason-P for his own personal use and for illegally taking unknown quantities of Damason-P.

3. According to petitioner, he illegally obtained and used Damason-P to deal with the stress in his life. At the time, he had just had his first child, and he was concerned about providing for his family and taking care of his dying father, who was living with them. In order to end his dependency on drugs, he initially attended approximately two dozen 12-Step meetings of Alcoholics Anonymous and Narcotics Anonymous. Thereafter, he began participating in a Bible-based 12-Step program at his church. Twice a month, from April 1997 to May 1998, petitioner worked with a Christian Counselor to get to the root of his short-comings and character defects. Approximately 14 months ago, he began participating in a Celebrate Recovery Program at his church. He has two or three close friends who act as his "accountability partners" to discuss and help him resolve his stress-related issues. Petitioner asserted that, every day, he commits himself to remaining clean and sober.

4. Since August 1997, petitioner has been employed as the Quality Assurance Director of Ameri-Kal, Inc. in Auburn, California, a manufacturer of dietary supplements and over-the-counter drugs. He has also been in charge of regulatory affairs, and has been the Information Technology Manager and the R&D Lab Manager and Formulator. Ameri-Kal, Inc. conducts random drug-testing of its employees. Petitioner has never had a positive test. Petitioner submitted a letter of support from Djoko "Tom" Soejoto, CEO of Ameri-Kal, Inc. In his letter, Mr. Soejoto stated that, before petitioner started working at the company, he was "very straightforward" about his past drug problems. According to Mr. Soejoto, petitioner has shown "an extraordinary level of recovery from his problems nine years ago," has "proven himself to be a very reliable, responsible member of [their] team," and has "grown personally and professionally beyond any of [his] expectations."

5. Petitioner has been a member of the Auburn Parkside Nazarene Church Band since 1997. He plays either guitar or bass guitar during Thursday night rehearsals and on those Sunday mornings that the director assigns him to play. From the fall of 2001 through February 2005, he was a den leader and assistant Cub Master for his son's Cub Scout troop. He is now involved with his son's Boy Scout group and is training to be a Scout Master.

6. Petitioner submitted letters of support from two pharmacists and two friends, who praised petitioner's honesty and integrity and his work with his church.

7. Petitioner also submitted certificates that indicated that he had taken 154 hours of Board-approved continuing education from 1997 through 2005. Thirty-one of those hours were taken in 2005.

LEGAL CONCLUSIONS

1. Over seven years have elapsed since petitioner's license was revoked. The information presented to the Board indicates that petitioner has been actively engaged in rehabilitation efforts and has pursued a clean and sober lifestyle since that time. In his petition and at hearing, petitioner took full responsibility for his past misconduct. Given

petitioner's rehabilitation, it would not be contrary to the public interest or welfare to issue him a probationary license at this time.

2. Because petitioner has not practiced as a pharmacist since 1997, in order to ensure that he has the requisite knowledge and skill to practice pharmacy safely, before his license will be reinstated, he must first take and pass the North American Pharmacist Licensure Examination (NAPLEX) and the California Pharmacist Jurisprudence Examination (CPJE).

3. Cause for reinstating petitioner's license pursuant to the terms and conditions set forth below was established.

ORDER

The petition of petitioner Kirk Bolas for reinstatement of his revoked pharmacy license is hereby GRANTED, conditioned upon his taking and passing the North American Pharmacist Licensure Examination (NAPLEX) and the California Pharmacist Jurisprudence Examination (CPJE). Upon passing the NAPLEX and CPJE examinations and issuance of a pharmacy license, petitioner's license shall be revoked, the revocation shall be stayed, and petitioner will be placed on probation for a period of three (3) years on the following terms and conditions:

1. **Rehabilitation Program – Pharmacists Recovery Program (PRP):** Within 30 days of the effective date of this decision, petitioner shall contact the Pharmacists Recovery Program for evaluation and shall successfully participate in and complete the treatment contract and any subsequent addendums as recommended and provided by the PRP and as approved by the Board. The costs for PRP participation shall be borne by petitioner.

If petitioner is currently enrolled in the PRP, said participation is now mandatory and is no longer considered a self-referral under Business and Professions Code section 4363, as of the effective date of this decision. Petitioner shall successfully participate in and complete his current contract and any subsequent addendums with the PRP. Probation shall be automatically extended until petitioner successfully completes his treatment contract. Any person terminated from the program shall be automatically suspended upon notice by the Board. Petitioner may not resume the practice of pharmacy until notified by the Board in writing. The Board shall retain jurisdiction to institute action to terminate probation for any violation of this term.

2. **Random Drug Screening:** Respondent, at his own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or a drug screening program approved by the Board. The length of time shall be for the entire probation period and the frequency of testing will be determined by the Board. At all times respondent shall fully cooperate with the Board, and

shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as directed shall constitute a violation of probation. Any confirmed positive drug test shall result in the immediate suspension of practice by respondent. Respondent may not resume the practice of pharmacy until notified by the Board in writing.

3. **Abstain from Drugs and Alcohol Use:** Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the Board, respondent shall provide documentation from the licensed practitioner that the prescription was legitimately issued and is a necessary part of the treatment of the respondent.

4. **Obey All Laws:** Petitioner shall obey all federal and state laws and regulations substantially related to or governing the practice of pharmacy. Petitioner shall report any of the following occurrences to the Board, in writing, within 72 hours of such occurrence:

a. an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws;

b. a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment;

c. a conviction of any crime; and

d. discipline, citation, or other administrative action filed by any state and/or federal agency which involves petitioner's pharmacy license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distribution or billing or charging for any drug, device or controlled substance.

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

6. **Interview with the Board:** Upon receipt of reasonable notice, petitioner shall appear in person for interviews with the Board upon request at various intervals at a location to be determined by the Board. Failure to appear for a scheduled interview without prior notification to Board staff shall be considered a violation of probation.

7. **Cooperation with Board Staff:** Petitioner shall cooperate with the Board's inspectional program and in the Board's monitoring and investigation of petitioner's compliance with the terms and conditions of his probation. Failure to cooperate shall be considered a violation of probation.

8. **Continuing Education:** Petitioner shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board.

9. **Notice to Employers:** Petitioner shall notify all present and prospective employers this decision and the terms, conditions and restrictions imposed on petitioner by this decision. Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of petitioner undertaking new employment, petitioner shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in writing acknowledging he or she has read this decision.

If petitioner works for or is employed by or through a pharmacy employment service, petitioner must notify the direct supervisor, pharmacist-in-charge and/or owner at every pharmacy of the terms and condition of the two decisions in advance of petitioner commencing work at the pharmacy.

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

10. **No Preceptorships, Supervision of Interns, Being Pharmacist-in-Charge (PIC), or Serving as a Consultant:** Petitioner shall not supervise any intern pharmacist or perform any of the duties of a preceptor, nor shall petitioner be the pharmacist-in-charge of any entity licensed by the Board unless otherwise specified in this order.

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

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

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

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

Upon acceptance of the surrender, petitioner shall relinquish his pocket license to the Board within 10 days of notification by the Board that the surrender is accepted. Petitioner may not reapply for any license from the Board for three years from the effective date of the surrender. Petitioner shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board.

14. **Notification of Employment/Mailing Address Change:** Petitioner shall notify the Board in writing within ten (10) days of a change of employment. Said notification shall include the reasons for leaving and/or the address of the new employer, supervisor or owner and work schedule if known. Petitioner shall notify the Board in writing within ten (10) days of a change in name, mailing address or phone number.

15. **Tolling of Probation:** Should petitioner, regardless of residency, for any reason cease practicing pharmacy for a minimum of 40 hours per calendar month in California, petitioner must notify the Board in writing within 10 days of cessation of the practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time shall not apply to the reduction of the probation period. It is a violation of probation for petitioner's probation to remain tolled pursuant to the provisions of this condition for a period exceeding three years.

“Cessation of practice” means any period of time exceeding 30 days in which petitioner is not engaged in the practice of pharmacy as defined in Section 4052 of the Business and Professions Code.

16. **Violation of Probation:** If petitioner violates probation in any respect, the Board, after giving petitioner notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation or an accusation is filed against petitioner during probation, the Board shall have continuing jurisdiction, and the period of probation shall be extended, until the petition to revoke probation is heard and decided.

If petitioner has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over petitioner, and probation shall automatically be extended until all terms and conditions have been satisfied or the Board has taken other action as

deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty which was stayed.

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

DATED: May 31, 2006

A handwritten signature in black ink, appearing to read 'S. Goldenberg', with a horizontal line underneath.

STANLEY GOLDENBERG, R.Ph.
President
Board of Pharmacy

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

In the Matter of the Accusation) NO. 2090
Against:)
KIRK C. BOLAS) DEFAULT DECISION
10020 Brentwood Circle) AND ORDER
Auburn, CA 95603)
Pharmacist License)
No. RPH 45427)
Respondent.)

Respondent Kirk C. Bolas, having been served with the Accusation, Statement to Respondent, and Notice of Defense form as provided by sections 11503 and 11505 of the Government Code of the State of California, and having failed to file a Notice of Defense within the time allowed by section 11506 of said code, and the default of said respondent having been duly noted, the California State Board of Pharmacy has determined that respondent has waived his rights to a hearing to contest the merits of said Accusation; that respondent is in default; and that this agency will take action on the Accusation and evidence herein without a hearing, and makes the following findings of fact:

1 FINDINGS OF FACT

2 1. The Accusation was made and filed by Patricia F.
3 Harris, in her official capacity as Executive Officer of the
4 California State Board of Pharmacy, Department of Consumer Affairs,
5 State of California.

6 2. On August 11, 1992, the California State Board of
7 Pharmacy issued original licentiate Number RPH 45427 to Kirk C.
8 Bolas (respondent herein) to practice pharmacy in California. Said
9 license was in full force and effect at all times relevant to the
10 allegations made herein. Said license expired on April 30, 1998,
11 and has not been renewed.

12 3. Business and Professions Code section 4021 defines
13 "controlled substance" as any substance listed in Chapter 2
14 (commencing with Section 11053) of Division 10 of the Health and
15 Safety Code.

16 4. Under Business and Professions Code section 4022
17 "dangerous drug" means any drug unsafe for self-use that bears the
18 legend "Caution: federal law prohibits dispensing without
19 prescription" or words of similar import; and any other drug that
20 by federal or state law can be lawfully dispensed only on
21 prescription or furnished pursuant to Section 4006.

22 5. Business and Professions Code section 4059(a)
23 provides that no person shall furnish any dangerous drug, except
24 upon the prescription of a physician, dentist, podiatrist,
25 optometrist, or veterinarian.

26 6. Business and Professions Code section 4060 provides
27 that no person shall possess any controlled substance, except that
28 furnished to a person upon the prescription of a physician,

1 dentist, or veterinarian.

2 7. Business and Professions Code section 4301 provides
3 that the Board shall take action against any licensee who is guilty
4 of unprofessional conduct. Unprofessional conduct includes, but is
5 not limited to :

6 (i) The commission of any act involving moral turpitude,
7 dishonesty, fraud, deceit, or corruption. [Business and
8 Professions Code section 4301, subd. f.];

9 (ii) The administering to oneself of any controlled
10 substance or use of any dangerous drug to extent or in a manner
11 dangerous to oneself or to others. [Business and Professions Code
12 section 4301, subd. h.];

13 (iii) The violation of any of the statutes of this state
14 of the United States regulating controlled substances and dangerous
15 drugs. [Business and Professions Code section 4301, subd. j.];

16 (iv) Violating or attempting to violate, directly or
17 indirectly, any provision or term of this chapter or of the
18 applicable federal and state laws and regulations governing
19 pharmacy, including regulations established by the Board.
20 [Business and Professions Code section 4301, subd. n].

21 8. Business and Professions Code section 4324 provides,
22 in relevant part, that every person who signs the name of another,
23 or of a fictitious person, or falsely makes, alters, forges, or
24 passes, as genuine, any prescription for drugs is guilty of
25 forgery.

26 9. Health and Safety Code section 11157 provides that no
27 person shall issue a prescription that is false or fictitious in
28 any respect.

1 10. Health and Safety Code section 11170 provides that
2 no person shall prescribe, administer or furnish a controlled
3 substance for himself.

4 11. Health and Safety Code section 11171 provides that
5 no person shall prescribe, administer or furnish a controlled
6 substance except under the conditions and in the manner prescribed
7 in the California Uniform Controlled Substance Act (Health and
8 Safety Code section 11000 et seq.).

9 12. Health and Safety Code section 11173 provides that
10 no person shall obtain a controlled substance by fraud, deceit,
11 misrepresentation, or subterfuge; and that no person shall make a
12 false statement in any prescription.

13 13. DRUGS

14 "Damason-P" is a Schedule III controlled substance as
15 designated by Health and Safety Code section 11056(e) and Business
16 and Professions Code section 4211.

17 BASIS FOR DISCIPLINE

18 14. Respondent has subjected his license to discipline
19 based on unprofessional conduct pursuant to Business and
20 Professions Code section 4301(j) for engaging in acts constituting
21 violations of Business and Professions Code sections 4059(a), 4060
22 and 4324, and Health and Safety Code sections 11157, 11170, and
23 11173 in the following manner:

24 A. During the period of about October 8, 1996 through
25 January 29, 1997, Respondent was employed at K-Mart Pharmacy #7590,
26 Woodland, California, in the capacity of a pharmacist.

27 B. During this period, in the course of his employment
28 as a pharmacist, Respondent, by his own admission, issued false

1 prescriptions in order to obtain, administer, possess, and furnish
2 to himself, for his own personal use, unknown quantities of
3 Damason-P, a dangerous drug and controlled substance.

4 C. During this period, Respondent made false statements
5 in at least eleven (11) prescriptions in which he issued telephone
6 prescription orders using fictitious patient names and false
7 physician prescriber names.

8 D. During this period, Respondent, by his own
9 admission, took unknown quantities of Damason-P from the pharmacy
10 and placed the drugs in his pants pocket in order to obtain,
11 possess and furnish the drugs to himself.

12 E. From the period of about January 21, 1997, through
13 January 29, 1997, Respondent obtained, possessed and furnished to
14 himself, for his own personal use, approximately 118 (one hundred
15 and eighteen) tablets of Damason-P.

16
17 15. Respondent has subjected his license to disciplinary
18 action based on unprofessional conduct pursuant to Business and
19 Professions Code section 4301(n) for violating state laws and
20 regulations governing pharmacy in the following manner:

21 A. Complainant incorporates by reference as though
22 fully set forth herein the allegations contained *infra* at paragraph
23 14, subparagraphs A through E.

24
25 16. Respondent has subjected his license to disciplinary
26 action based on unprofessional conduct pursuant to Business and
27 Professions Code section 4301(h) in the following manner:

28 A. During the period of about October 8, 1996 through

1 January 29, 1997, Respondent administered to himself the dangerous
2 drugs and controlled substances as set forth *infra* at paragraph 14,
3 subparagraphs A through E.

4 B. The self-administration by Respondent of said
5 dangerous drugs and controlled substances without the authorization
6 of a physician, and outside the course of any medical treatment
7 prescribed by a physician, constitutes the use of dangerous drugs
8 and controlled substances in a manner as to be dangerous or
9 injurious to Respondent, or to the public.

10
11 17. Respondent has subjected his license to disciplinary
12 action based on unprofessional conduct pursuant to Business and
13 Professions Code section 4301(f) in the following manner:

14 A. Complainant incorporates by reference as though
15 fully set forth *infra* at paragraph 14, subparagraphs A through E.

16 B. The acts by Respondent of stealing Damason-P and
17 forging prescriptions to obtain Damason-P for self-use constitute
18 acts involving moral turpitude, dishonesty, fraud, deceit or
19 corruption.

20 **DETERMINATION OF ISSUES**

21 1. Based on the foregoing Findings of Fact, as set forth
22 in paragraphs 14 through 17 above, respondent has subjected his
23 pharmacy license to discipline under Business and Professions Code
24 section 4301(j) for engaging in acts constituting violations of
25 Business and Professions Code sections 4059(a), 4060, 4324, and
26 Health and Safety Code sections 11157, 11170, and 11173; and for
27 violating Business and Professions Code sections 4301(n), 4301(h),
28 and 4301(f).

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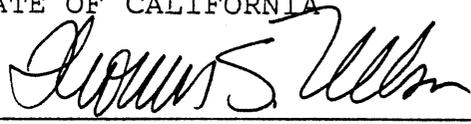
ORDER

WHEREFORE, the California State Board of Pharmacy make its order revoking pharmacy license number RPH 45427, issued to Kirk C. Bolas.

This decision shall become effective on the 4th day of December, 1998.

Dated and signed this 5th day of November, 1998.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 

THOMAS S. NELSON
Board President

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mms (08/27/98)

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of the State of California
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6 Attorneys for Complainant
7

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

10 In the Matter of the Accusation) NO. 2090
11 Against:)
) ACCUSATION
12 KIRK C. BOLAS)
10020 Brentwood Circle)
13 Auburn, CA 95603)
Pharmacy License)
14 No. RPH 45427)
)
15 Respondent.)
)

16
17 Complainant Patricia F. Harris (hereinafter
18 "Complainant") alleges as causes for discipline the following:

19 1. Complainant is the Executive Officer of the
20 California State Board of Pharmacy, Department of Consumer Affairs,
21 State of California (hereinafter the "Board"). Complainant makes
22 and files this Accusation in her official capacity as Executive
23 Officer with the Board, and in no other capacity.

24
25 2. Kirk C. Bolas (hereinafter "Respondent") was issued
26 original licentiate No. RPH 45427 to practice pharmacy in
27 California on August 11, 1992. Said license was in full force and
28 effect at all times relevant to the allegations made herein. The

1 license is in full effect until April 30, 1998, unless renewed.

2
3 3. Business and Professions Code section 4021 defines
4 "controlled substance" as any substance listed in Chapter 2
5 (commencing with Section 11053) of Division 10 of the Health and
6 Safety Code.

7 4. Under Business and Professions Code section 4022
8 "dangerous drug" means any drug unsafe for self-use that bears the
9 legend "Caution: federal law prohibits dispensing without
10 prescription" or words of similar import; and any other drug that
11 by federal or state law can be lawfully dispensed only on
12 prescription or furnished pursuant to Section 4006.

13 5. Business and Professions Code section 4059(a)
14 provides that no person shall furnish any dangerous drug, except
15 upon the prescription of a physician, dentist, podiatrist,
16 optometrist, or veterinarian.

17 6. Business and Professions Code section 4060 provides
18 that no person shall possess any controlled substance, except that
19 furnished to a person upon the prescription of a physician,
20 dentist, or veterinarian.

21 7. Business and Professions Code section 4301 provides
22 that the Board shall take action against any licensee who is guilty
23 of unprofessional conduct. Unprofessional conduct includes, but is
24 not limited to :

25 (i) The commission of any act involving moral turpitude,
26 dishonesty, fraud, deceit, or corruption. [Business and
27 Professions Code section 4301, subd. f.];

28 / / /

1 (ii) The administering to oneself of any controlled
2 substance or use of any dangerous drug to extent or in a manner
3 dangerous to oneself or to others. [Business and Professions Code
4 section 4301, subd. h.];

5 (iii) The violation of any of the statutes of this state
6 of the United States regulating controlled substances and dangerous
7 drugs. [Business and Professions Code section 4301, subd. j.];

8 (iv) Violating or attempting to violate, directly or
9 indirectly, any provision or term of this chapter or of the
10 applicable federal and state laws and regulations governing
11 pharmacy, including regulations established by the Board.
12 [Business and Professions Code section 4301, subd. n].

13 8. Business and Professions Code section 4324 provides,
14 in relevant part, that every person who signs the name of another,
15 or of a fictitious person, or falsely makes, alters, forges, or
16 passes, as genuine, any prescription for drugs is guilty of
17 forgery.

18 9. Health and Safety Code section 11157 provides that
19 no person shall issue a prescription that is false or fictitious in
20 any respect.

21 10. Health and Safety Code section 11170 provides that
22 no person shall prescribe, administer or furnish a controlled
23 substance for himself.

24 11. Health and Safety Code section 11171 provides that
25 no person shall prescribe, administer or furnish a controlled
26 substance except under the conditions and in the manner prescribed
27 in the California Uniform Controlled Substance Act (Health and
28 Safety Code section 11000 et seq.).

1 12. Health and Safety Code section 11173 provides that
2 no person shall obtain a controlled substance by fraud, deceit,
3 misrepresentation, or subterfuge; and that no person shall make a
4 false statement in any prescription.

5 13. Under Business and Professions Code section 125.3,
6 the Board may request the administrative law judge to direct a
7 licentiate found to have committed a violation or violations of the
8 licensing act to pay a sum not to exceed the reasonable costs of
9 the investigation and enforcement of the case.

10
11 14. DRUGS

12 "Damason-P" is a Schedule III controlled substance as
13 designated by Health and Safety Code section 11056(e) and Business
14 and Professions Code section 4211.

15
16 BASIS FOR DISCIPLINE

17 15. Respondent has subjected his license to discipline
18 based on unprofessional conduct pursuant to Business and
19 Professions Code section 4301(j) for engaging in acts constituting
20 violations of Business and Professions Code sections 4059(a), 4060
21 and 4324, and Health and Safety Code sections 11157, 11170, and
22 11173 in the following manner:

23 A. During the period of about October 8, 1996 through
24 January 29, 1997, Respondent was employed at K-Mart Pharmacy #7590,
25 Woodland, California, in the capacity of a pharmacist.

26 B. During this period, in the course of his employment
27 as a pharmacist, Respondent, by his own admission, issued false
28 prescriptions in order to obtain, administer, possess, and furnish

1 to himself, for his own personal use, unknown quantities of
2 Damason-P, a dangerous drug and controlled substance.

3 C. During this period, Respondent made false statements
4 in at least eleven (11) prescriptions in which he issued telephone
5 prescription orders using fictitious patient names and false
6 physician prescriber names.

7 D. During this period, Respondent, by his own admission,
8 took unknown quantities of Damason-P from the pharmacy and placed
9 the drugs in his pants pocket in order to obtain, possess and
10 furnish the drugs to himself.

11 E. From the period of about January 21, 1997, through
12 January 29, 1997, Respondent obtained, possessed and furnished to
13 himself, for his own personal use, approximately 118 (one hundred
14 and eighteen) tablets of Damason-P.

15
16 16. Respondent has subjected his license to disciplinary
17 action based on unprofessional conduct pursuant to Business and
18 Professions Code section 4301(n) for violating state laws and
19 regulations governing pharmacy in the following manner:

20 A. Complainant incorporates by reference as though fully
21 set forth herein the allegations contained *infra* at paragraph 15,
22 subparagraphs A through E.

23
24 17. Respondent has subjected his license to disciplinary
25 action based on unprofessional conduct pursuant to Business and
26 Professions Code section 4301(h) in the following manner:

27 A. During the period of about October 8, 1996 through
28 January 29, 1997, Respondent administered to himself the dangerous

1 drugs and controlled substances as set forth *infra* at paragraph 15,
2 subparagraphs A through E.

3 B. The self-administration by Respondent of said
4 dangerous drugs and controlled substances without the authorization
5 of a physician, and outside the course of any medical treatment
6 prescribed by a physician, constitutes the use of dangerous drugs
7 and controlled substances in a manner as to be dangerous or
8 injurious to Respondent, or to the public.

9
10 18. Respondent has subjected his license to disciplinary
11 action based on unprofessional conduct pursuant to Business and
12 Professions Code section 4301(f) in the following manner:

13 A. Complainant incorporates by reference as though fully
14 set forth *infra* at paragraph 15, subparagraphs A through E.

15 B. The acts by Respondent of stealing Damason-P and
16 forging prescriptions to obtain Damason-P for self-use constitute
17 acts involving moral turpitude, dishonesty, fraud, deceit or
18 corruption.

19
20 WHEREFORE, Complainant prays that a hearing be held and
21 that the California State Board of Pharmacy make its order:

22 1. Revoking or suspending pharmacy license number RPH
23 45427, issued to Kirk C. Bolas.

24 2. Ordering Kirk C. Bolas to pay to the Board
25 reasonable costs of investigating and enforcing the case according
26 to proof at the hearing, pursuant to Business and Professions Code
27 section 125.3.

28 / / /

1 3. Taking such other and further action as may be
2 deemed proper and appropriate.

3
4 DATED: 5/22/98

5
6 P. J. Harris
7 PATRICIA F. HARRIS
8 Executive Officer
9 California State Board of Pharmacy
10 Department of Consumer Affairs
11 State of California

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17 Complainant

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