

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

In the Matter of the Accusation Against:

Case No. 4207

**HANNA MASON
3701 West Pondera Street
Lancaster, CA 93535
Original Pharmacist License No. RPH 46923**

AND

**PALMERRX, INC. DBA ACTON
PHARMACY; HANNAH MASON
3630 Smith Avenue
Acton, CA 93510
Original Permit No. PHY 48219**

Respondent.

DECISION AND ORDER

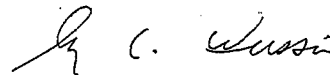
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on April 23, 2012.

It is so ORDERED on March 23, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 4207

13 **HANNAH MASON**
14 **3701 West Pondera Street**
15 **Lancaster, CA 93535**
16 **Original Pharmacist License No. RPH 46923**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

Respondent.

17 AND

18 **PALMERRX, INC. DBA ACTON**
19 **PHARMACY; HANNAH MASON**
20 **3630 Smith Avenue**
21 **Acton, CA 93510**
22 **Original Permit No. PHY 48219**

Respondent.

23 In the interest of a prompt and speedy settlement of this matter, consistent with the public
24 interest and the responsibility of the Board of Pharmacy, Department of Consumer Affairs, the
25 parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will be
26 submitted to the Board of Pharmacy for approval and adoption as the final disposition of
27 Accusation No. 4207 filed against Respondents PalmerRx, Inc. dba Acton Pharmacy and Hannah
28 Mason.

///

1 **PARTIES**

2 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
3 She brought this action solely in her official capacity and is represented in this matter by Kamala
4 D. Harris, Attorney General of the State of California, by Michael Brown, Deputy Attorney
5 General.

6 2. Respondent PalmerRx, Inc. dba Acton Pharmacy and Hannah Mason (Respondents)
7 are representing themselves in this proceeding and have chosen not to exercise its right to be
8 represented by counsel.

9 3. On or about October 30, 2006, the Board of Pharmacy issued Original Permit No.
10 PHY 48219 to PalmerRx, Inc. dba Acton Pharmacy; Hannah Mason (Respondent PalmerRx).
11 The Original Permit was in full force and effect at all times relevant to the charges brought in
12 Accusation No. 4207 and expired on October 1, 2011, and has not been renewed.

13 4. On or about March 16, 1994, the Board of Pharmacy issued Original Pharmacist
14 License Number RPH 46923 to Hannah Mason (Respondent Mason). The Original Pharmacist
15 License was in full force and effect at all times relevant to the charges brought in Accusation No.
16 4207 and expired on July 11, 2011, and has not been renewed.

17 5. The Board records indicate Respondent Mason is and has been the Pharmacist-in-
18 Charge for Respondent PalmerRx since October 30, 2006.

19 **JURISDICTION**

20 6. Accusation No. 4207 was filed before the Board of Pharmacy (Board), Department of
21 Consumer Affairs, and is currently pending against Respondents. The Accusation and all other
22 statutorily required documents were properly served on Respondents on November 30, 2011.
23 Respondents timely filed its Notice of Defense contesting the Accusation.

24 A copy of Accusation No. 4207 is attached as exhibit A and incorporated herein by
25 reference.

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1 be inadmissible in any legal action between the parties, and the Board of Pharmacy shall not be
2 disqualified from further action by having considered this matter.

3 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
4 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
5 effect as the originals.

6 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
7 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
8 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
9 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
10 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
11 writing executed by an authorized representative of each of the parties.

12 14. In consideration of the foregoing admissions and stipulations, the parties agree that
13 the Board may, without further notice or formal proceeding, issue and enter the following
14 Disciplinary Order:

15 **ORDER**

16 IT IS HEREBY ORDERED that Citation Nos. CI 2008 39142 and CI 2009 42198 issued on
17 or about January 5, 2010 to Respondent PalmerRx and Respondent Mason, respectively, as well
18 as the abatements and fines ordered by those Citations, are withdrawn and/or dismissed.

19 IT IS HEREBY ORDERED that Respondent PalmerRx is jointly and responsible for the
20 truth of each and every charge and allegation in Accusation No. 4207. Respondent PalmerRx is
21 jointly, responsible and liable for the civil penalties to the Board of Pharmacy in the amount of
22 \$50,000.00 (Fifty Thousand Dollars).

23 **DISCIPLINARY ORDER**

24 IT IS HEREBY ORDERED that Pharmacy License No. PHY 48219, issued to PalmerRx,
25 Inc. dba Acton Pharmacy is revoked, and Pharmacist License No. RPH 46923, issued to Hanna
26 Mason, is also revoked. However, each revocation is stayed and each Respondent is placed on
27 probation for four (4) years on the following terms and conditions.

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TERMS APPLICABLE TO RESPONDENT
HANNAH MASON

1. Payment of Civil Penalties

Respondent Mason shall pay civil penalties to the Board of Pharmacy in the amount and on such terms as specified below. Respondent Mason understands and agrees that such civil penalties are administrative fines pursuant to 11 U.S.C. § 523(a)(7), and as such are not dischargeable in bankruptcy. Respondent Mason further understand and agree that the filing of bankruptcy by Respondent Mason shall not relieve Respondent Mason of the obligation to pay the balance of the civil penalties to the Board. Respondent Mason shall be liable for payment to the Board of \$50,000.00 (Fifty Thousand Dollars) in civil penalties. Respondent Mason shall pay \$5,000.00 (Five Thousand Dollars) on or before the effective date of this decision, and shall thereafter make twelve (12) quarterly payments of \$3,750.00 (Three Thousand Seven Hundred Fifty Dollars) every ninety (90) days until the entire balance is paid in full. Respondent Mason may pay the full remaining balance due at any time, and may make extra payments. Aside from such expedited payment, there shall be no deviation from this schedule absent prior written approval by the Board of Pharmacy or its designee. Failure to pay the civil penalties by the deadlines as directed shall be considered a violation of probation.

Further, absent prior written approval by the Board or its designee, Respondent Mason may successfully complete probation until this amount is paid in full. Each Respondent is responsible for payment of the full amount and neither may claim to owe only a portion or a share.

2. Community Services Program - Testimonial

Respondent Mason has authored a letter describing her incentives to participate and her level of participation in filling and/or dispensing internet prescriptions, and detailing the consequences of this participation for her, her family, the public health, and the profession, what she has learned from this experience, and what she would advise others who are approached to fill or dispense internet prescriptions. The letter is attached hereto as Exhibit "B", is incorporated herein by reference, and is part of Respondent Mason's public record of discipline with the Board of Pharmacy. The Board of Pharmacy may print, reprint, quote, or make other use of this letter in its communications and/or on its website.

1 Further, upon provision of reasonable notice, Respondent Mason shall appear for and take
2 part in a video recording of Respondent Mason reading the letter, at a time and place arranged by
3 the Board or its designee. The video recording shall be similarly subject to use by the Board of
4 Pharmacy in its communications and/or on its website. Failure by Respondent Mason, upon
5 reasonable notice, to timely appear for and participate in such videotaping shall be considered a
6 violation of probation.

7 **3. Obey All Laws**

8 Respondent Mason shall obey all state and federal laws and regulations. Respondent
9 Mason shall report any of the following occurrences to the board, in writing, within seventy-two
10 (72) hours of such occurrence:

- 11 • an arrest or issuance of a criminal complaint for violation of any provision of the
12 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
substances laws
- 13 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
14 criminal complaint, information or indictment
- 15 • a conviction of any crime
- 16 • discipline, citation, or other administrative action filed by any state or federal agency
17 which involves either of Respondents' licenses or which is related to the practice of
pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
for any drug, device or controlled substance.

18 Failure to timely report such occurrence(s) shall be considered a violation of probation.

19 **4. Report to the Board**

20 Respondent Mason shall report to the board quarterly, on a schedule as directed by the
21 Board of Pharmacy or its designee. The report shall be made either in person or in writing, as
22 directed. Among other requirements, Respondent Mason shall state in each report under penalty
23 of perjury whether there has been compliance with all the terms and conditions of probation.
24 Failure to submit timely reports in a form as directed shall be considered a violation of probation.
25 Any period of delinquency in submission of reports as directed may be added to the total period
26 of probation. Moreover, if the final probation report is not made as directed, the probation shall
27 be automatically extended until such time as the final report is made and accepted by the Board of
28 Pharmacy.

1 **5. Interview with the Board**

2 Upon receipt of reasonable prior notice, Respondent Mason shall appear in person for
3 interviews with the Board of Pharmacy or its designee, at such intervals and locations as are
4 determined by the Board of Pharmacy or its designee. The owner or officer of Respondent
5 Pharmacy shall make the appearance on behalf of Respondent PalmerRx. Failure to appear for
6 any scheduled interview without prior notification to the Board of Pharmacy staff, or failure to
7 appear for two (2) or more scheduled interviews during the period of probation, shall be
8 considered a violation of probation.

9 **6. Cooperate with Board Staff**

10 Respondent Mason shall cooperate with the Board of Pharmacy's inspection program and
11 with the Board of Pharmacy's monitoring and investigation of Respondents' compliance with the
12 terms and conditions of their probation(s). Failure to cooperate shall be considered a violation of
13 probation.

14 **7. Reimbursement of Board Costs**

15 Reimbursement of costs per Business and Professions Code section 125.3 is waived.

16 **8. Probation Monitoring Costs**

17 Respondent Mason shall pay all costs associated with probation monitoring as determined
18 by the Board of Pharmacy each and every year of probation. Such costs shall be payable to the
19 Board of Pharmacy on a schedule as directed by the Board of Pharmacy or its designee. Failure
20 to pay such costs by the deadline as directed shall be considered a violation of probation.

21 **9. Status of License**

22 Respondent Mason at all times while on probation, maintain an active, current license with
23 the Board of Pharmacy, including any period during which suspension or probation is tolled.
24 Failure to maintain an active, current license shall be considered a violation of probation. If
25 Respondent Mason's license expires or is cancelled by operation of law or otherwise at any time
26 during the period of probation, including any extensions thereof due to tolling or otherwise, upon
27 renewal or reapplication that Respondent Mason's license shall be subject to all terms and
28 conditions of this probation not previously satisfied.

1 **10. License Surrender While on Probation/Suspension**

2 Following the effective date of this decision, should Respondent Mason cease to practice
3 due to retirement or health, or be otherwise unable to satisfy the terms and conditions of
4 probation, that Respondent Mason may tender its license to the Board of Pharmacy for surrender.
5 The Board of Pharmacy or its designee shall have the discretion whether to grant the request for
6 surrender or take any other appropriate and reasonable action. Upon formal acceptance of the
7 surrender of the license, Respondent Mason will no longer be subject to the terms and conditions
8 of probation. This surrender constitutes a record of discipline and shall become a part of the
9 Respondent Mason's license history with the Board of Pharmacy.

10 Within ten (10) days of notification by the Board of Pharmacy that the surrender is
11 accepted, Respondent Mason shall relinquish its pocket and wall licenses to the Board of
12 Pharmacy. Upon surrender, Respondent Mason may not reapply for any license from the Board
13 of Pharmacy for three (3) years from the effective date of the surrender. Respondent Mason shall
14 meet all requirements applicable to the license sought as of the date of submitted to the Board of
15 Pharmacy, including any outstanding costs.

16 **11. Violation of Probation**

17 If Respondent Mason has not complied with any term or condition of probation, the Board
18 of Pharmacy shall have continuing jurisdiction over Respondent Mason, and probation shall
19 automatically be extended, until all terms and conditions have been satisfied or the Board of
20 Pharmacy has taken other action as deemed appropriate to treat the failure to comply as a
21 violation of probation, to terminate probation, and to impose the penalty that was stayed.

22 If Respondent Mason violates probation in any respect, the Board of Pharmacy, after giving
23 Respondent Mason notice and an opportunity to be heard, may revoke probation as to that
24 Respondent and carry out the disciplinary order that was stayed. If a petition to revoke probation
25 or an accusation is filed during probation, the Board of Pharmacy shall have continuing
26 jurisdiction and the period of probation shall be automatically extended until the petition to
27 revoke probation or accusation is heard and decided.

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1 **12. Completion of Probation**

2 Upon written notice by the Board of Pharmacy or its designee indicating successful
3 completion of probation, the successfully-completing Respondent Mason's license will be fully
4 restored.

5 **13. Continuing Education**

6 Respondent Mason shall provide evidence of efforts to maintain skill and knowledge as a
7 Pharmacist as directed by the Board of Pharmacy or its designee.

8 **14. Notice to Employers**

9 During the period of probation, Respondent Mason shall notify all present and prospective
10 employers of the decision in Accusation No. 4207 and the terms, conditions, and restrictions
11 imposed on Respondent by the decision, as follows:

12 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
13 Respondent Mason undertaking any new employment, Respondent Mason shall cause her direct
14 supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during
15 Respondent's tenure of employment) and owner to report to the Board of Pharmacy in writing
16 acknowledging that the listed individual(s) has/have read the decision in Accusation No. 4207
17 and all the terms and conditions imposed thereby. It shall be Respondent Mason's responsibility
18 to ensure that her employer(s) and/or supervisor submit the timely acknowledgments to the Board
19 of Pharmacy. If Respondent Mason works for or is employed by or through a pharmacy
20 employment service, Respondent Mason must notify her direct supervisor, pharmacist-in-charge,
21 and owner at every entity licensed by the Board of Pharmacy of the terms and conditions of the
22 decision in Accusation No. 4207 in advance of Respondent Mason commencing work at each
23 licensed entity. A record of this notification must be provided to the Board of Pharmacy upon
24 request.

25 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
26 (15) days of Respondent Mason undertaking any new employment by or through a pharmacy
27 employment service, Respondent Mason shall cause her direct supervisor with the pharmacy
28 employment service to report to the Board of Pharmacy in writing acknowledging he/she has read

1 the decision in Accusation No. 4207 and the terms and conditions imposed thereby. It shall be
2 Respondent Mason's responsibility to ensure her employer(s) and/or supervisor(s) submit timely
3 acknowledgment(s). "Employment" within the meaning of this provision shall include any full-
4 time, part-time, temporary, relief or pharmacy management service as a pharmacist or any
5 position for which a pharmacist license is a requirement or criterion for employment, whether the
6 respondent is an employee, independent contractor or volunteer.

7 Failure to timely notify present or prospective employer(s) or to cause those employer(s) to
8 submit timely acknowledgments to the Board of Pharmacy shall be considered a violation of
9 probation.

10 **15. Notification of a Change in Employment, Name, Address, or Phone**

11 Respondent Mason shall notify the board in writing within ten (10) days of any change of
12 employment. Said notification shall include the reasons for leaving, the address of the new
13 employer, the name of the supervisor and owner, and the work schedule. Respondent Mason
14 shall further notify the board in writing within ten (10) days of a change in name, residence
15 address, mailing address, or phone number.

16 Failure to timely notify the Board of Pharmacy of any change in employer, name, address
17 or phone number shall be considered a violation of probation.

18 **16. Tolling of Probation**

19 Except during periods of suspension, Respondent Mason shall at all times while on
20 probation, be employed as a pharmacist in California for a minimum of forty (40) hours per
21 calendar month. Any month during which this minimum is not met shall toll the period of
22 probation, i.e., the period of probation shall be extended by one month for each month during
23 which this minimum is not met. During any such period of tolling of probation, Respondent
24 Mason must nonetheless comply with all terms and conditions of probation.

25 Should Respondent Mason, regardless of residency, for any reason (including vacation)
26 cease practicing as a pharmacist for a minimum of forty (40) hours per calendar month in
27 California, Respondent Mason must notify the Board of Pharmacy in writing within ten (10) days
28 of the cessation of practice, and must further notify the Board of Pharmacy in writing within ten

1 (10) days of the resumption of practice. Any failure to provide such notification(s) shall be
2 considered a violation of probation.

3 It is a violation of probation for Respondent Mason's probation to remain tolled pursuant to
4 the provisions of this condition for a total period, counting consecutive and non-consecutive
5 months, exceeding thirty-six (36) months.

6 "Cessation of practice" means any calendar month during which Respondent is not
7 practicing as a pharmacist for at least forty (40) hours, as defined by Business and
8 Professions Code section 4000 et seq .

8 "Resumption of practice" means any calendar month during which Respondent
9 practices as a pharmacist for at least forty (40) hours as a pharmacist as defined by
10 Business and Professions Code section 4000 et seq.

11 **17. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as
12 Designated Representative-in-Charge, or Serving as a Consultant**

12 During the period of probation, Respondent Mason shall not supervise any intern
13 pharmacist, be the pharmacist-in-charge or designated representative-in-charge of any entity
14 licensed by the board nor serve as a consultant unless otherwise specified in this order.
15 Assumption of any such unauthorized supervision responsibilities shall be considered a violation
16 of probation.

17 **18. Pharmacist Recovery Program (PRP)**

18 Within thirty (30) days of the effective date of this decision, Respondent Mason shall
19 contact the Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter
20 enroll, successfully participate in, and complete the treatment contract and any subsequent
21 addendums as recommended and provided by the PRP and as approved by the board or its
22 designee. The costs for PRP participation shall be borne by the Respondent Mason.

23 If Respondent Mason is currently enrolled in the PRP, said participation is now mandatory
24 and as of the effective date of this decision is no longer considered a self-referral under Business
25 and Professions Code section 4362(c)(2). Respondent Mason shall successfully participate in and
26 complete her current contract and any subsequent addendums with the PRP.

27 Failure to timely contact or enroll in the PRP, or successfully participate in and complete
28 the treatment contract and/or any addendums, shall be considered a violation of probation.

1 Probation shall be automatically extended until Respondent Mason successfully completes
2 the PRP. Any person terminated from the PRP program shall be automatically suspended by the
3 board. Respondent Mason may not resume the practice of pharmacy until notified by the board in
4 writing.

5 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
6 licensed practitioner as part of a documented medical treatment shall result in the automatic
7 suspension of practice by Respondent Mason and shall be considered a violation of probation.
8 Respondent Mason may not resume the practice of pharmacy until notified by the board in
9 writing.

10 During suspension, Respondent Mason shall not enter any pharmacy area or any portion
11 of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other
12 distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous
13 drugs and devices or controlled substances are maintained. Respondent Mason shall not practice
14 pharmacy nor do any act involving drug selection, selection of stock, manufacturing,
15 compounding, dispensing or patient consultation; nor shall Respondent Mason manage,
16 administer, or be a consultant to any licensee of the board, or have access to or control the
17 ordering, manufacturing or dispensing of dangerous drugs and controlled substances. Respondent
18 Mason shall not resume practice until notified by the board.

19 During suspension, Respondent Mason shall not engage in any activity that requires the
20 professional judgment of a pharmacist. Respondent Mason shall not direct or control any aspect
21 of the practice of pharmacy. Respondent Mason shall not perform the duties of a pharmacy
22 technician or a designated representative for any entity licensed by the board.

23 Subject to the above restrictions, Respondent Mason may continue to own or hold an
24 interest in any licensed premises in which she holds an interest at the time this decision becomes
25 effective unless otherwise specified in this order.

26 Failure to comply with this suspension shall be considered a violation of probation.
27 Respondent Mason shall pay administrative fees as invoiced by the PRP or its designee. Fees not
28

1 timely paid to the PRP shall constitute a violation for probation. The board will collect unpaid
2 administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

3 **19. No Ownership of Licensed Premises**

4 Respondent Mason shall not own, have any legal or beneficial interest in, or serve as a
5 manager, administrator, member, officer, director, trustee, associate, or partner of any business,
6 firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent
7 Mason shall sell or transfer any legal or beneficial interest in any entity licensed by the board
8 within ninety (90) days following the effective date of this decision and shall immediately
9 thereafter provide written proof thereof to the board. Failure to timely divest any legal or
10 beneficial interest(s) or provide documentation thereof shall be considered a violation of
11 probation.

12 **20. Ethics Course**

13 Within sixty (60) calendar days of the effective date of this decision, Respondent Mason
14 shall enroll in a course in ethics, at Respondent Mason's expense, approved in advance by the
15 board or its designee. Failure to initiate the course during the first year of probation, and
16 complete it within the second year of probation, is a violation of probation.

17 Respondent Mason shall submit a certificate of completion to the board or its designee
18 within five days after completing the course.

19 **21. Discontinuance of Business**

20 Respondent owner shall, within seven (7) days of the effective date of this decision,
21 arrange for the destruction of, the transfer to, sale of or storage in a facility licensed by the board
22 of all controlled substances and dangerous drugs and devices. Respondent owner shall provide
23 written proof of such disposition, submit a completed Discontinuance of Business form for
24 PalmerRx, Inc. dba Acton Pharmacy and return the wall and renewal license to the board within
25 five days of disposition.

26 **22. Testify**

27 If requested to do so, Respondent Mason shall honestly testify to the facts and
28 circumstances against Desert Drugs, Valley Pharmacy, The Medicine Shoppe #821, Moazzem

1 Chowdhury, Taohee Hasan, Stephen Cherman and Willon Henderson. Should Respondent
2 Mason refuse or fail to testify if requested to do so, should she testify dishonestly, then
3 Respondent Mason shall be considered to be in violation of her probation.

4 ACCEPTANCE

5 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
6 stipulation and the effect it will have on my Pharmacy License and Original Pharmacist License.
7 I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and
8 intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

9

10

11 DATED: 12/2/2011

Hannah Mason
PALMERRX, INC. DBA ACTON PHARMACY;
HANNAH MASON
Respondent

12

13

14 DATED: 12/2/2011

Hannah Mason
HANNAH MASON
Respondent

15

16

17

ENDORSEMENT

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19

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

20

21

Dated: November __, 2011

Respectfully submitted,

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23

KAMALA D. HARRIS
Attorney General of California
GLORIA A. BARRIOS
Supervising Deputy Attorney General

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25

26

MICHAEL BROWN
Deputy Attorney General
Attorneys for Complainant

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1 Chowdhury, Taohee Hasan, Stephen Cherman and Willon Henderson. Should Respondent
2 Mason refuse or fail to testify if requested to do so, should she testify dishonestly, then
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9
10
11 DATED: _____

12 PALMERRX, INC. DBA ACTON PHARMACY;
13 HANNAH MASON
Respondent

14 DATED: _____

15 HANNAH MASON
16 Respondent


17 ENDORSEMENT

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

20 Dated: ^{December} ~~November~~ 2, 2011

21 Respectfully submitted,

22 KAMALA D. HARRIS
Attorney General of California
23 GLORIA A. BARRIOS
Supervising Deputy Attorney General

24 
25 MICHAEL BROWN
26 Deputy Attorney General
27 *Attorneys for Complainant*

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Exhibit A

Accusation No. 3919

1 KAMALA D. HARRIS
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12 **HANNAH MASON**
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13 Lancaster, CA 93535
Original Pharmacist License No. RPH 46923
14 Respondent.
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16 **AND**
17 **PALMERRX, INC. DBA ACTON**
PHARMACY; HANNAH MASON
3630 Smith Avenue
18 Acton, CA 93510
Original Permit No. PHY 48219
19 Respondent.
20

Case No. 4207

ACCUSATION

21 Complainant alleges:

22 **PARTIES**

- 23 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
24 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 25 2. On or about October 30, 2006, the Board of Pharmacy issued Original Permit
26 Number PHY 48219 to PalmerRx, Inc. dba Acton Pharmacy; Hannah Mason (Respondent
27 PalmerRx). The Original Permit was in full force and effect at all times relevant to the charges
28 brought herein and expired on October 1, 2011, and has not been renewed.

1 3. On or about March 16, 1994, the Board of Pharmacy issued Original Pharmacist
2 License Number RPH 46923 to Hannah Mason (Respondent Mason). The Original Pharmacist
3 License was in full force and effect at all times relevant to the charges brought herein and expired
4 on July 31, 2011, and has not been renewed.

5 4. The Board records indicate Respondent Mason was the Pharmacist-in-Charge for
6 Respondent PalmerRx since October 30, 2006.

7 JURISDICTION

8 5. This Accusation is brought before the Board of Pharmacy (Board), Department of
9 Consumer Affairs, under the authority of the following laws. All section references are to the
10 Business and Professions Code unless otherwise indicated.

11 6. Section 4005 of the Code provides that the Board may adopt rules and regulations, as
12 may be necessary for the protection of the public. Included therein shall be the right to adopt
13 rules and regulations as follows: for the proper and more effective enforcement and
14 administration of this chapter; pertaining to the practice of pharmacy; and pertaining to
15 establishments wherein any drug or device is compounded, prepared, furnished, or dispensed.

16 7. Section 4011 of the Code provides that the Board shall administer and enforce both
17 the Pharmacy Law (Bus. & Prof. Code, § 4000 et seq.) and the Uniform Controlled Substances
18 Act (Health & Safety Code, § 11000 et seq.).

19 8. Section 4113(c) of the Code states:

20 “The pharmacist-in-charge shall be responsible for a pharmacy’s compliance with all state
21 and federal laws and regulations pertaining to the practice of pharmacy.”

22 9. Section 4300(a) of the Code provides that every license issued by the Board may be
23 suspended or revoked.

24 10. Section 4402(a) of the Code provides that any pharmacist license that is not renewed
25 within three years following its expiration may not be renewed, restored, or reinstated and shall
26 be canceled by operation of law at the end of the three-year period.

27 11. Section 4402(e) of the Code provides that any other license issued by the Board may
28 be canceled by the Board if not renewed within 60 days after its expiration, and any license

1 canceled in this fashion may not be reissued but will instead require a new application to seek
2 reissuance.

3 12. Section 118, subdivision (b), of the Code provides that the
4 suspension/expiration/surrender/cancellation of a license shall not deprive the
5 Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period
6 within which the license may be renewed, restored, reissued or reinstated.

7 STATUTORY AND REGULATORY PROVISIONS

8 13. Section 4301 of the Code states:

9 "The board shall take action against any holder of a license who is guilty of unprofessional
10 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
11 Unprofessional conduct shall include, but is not limited to, any of the following:

12 "(j) The violation of any of the statutes of this state, or any other state, or of the United
13 States regulating controlled substances and dangerous drugs.

14 ...
15 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
16 violation of or conspiring to violate any provision or term of this chapter or of the applicable
17 federal and state laws and regulations governing pharmacy, including regulations established by
18 the board or by any other state or federal regulatory agency."

19 14. Section 4067(a) of the Code provides, in pertinent part, that no person or entity shall
20 dispense or furnish, or cause to be dispensed or furnished, dangerous drugs or dangerous devices,
21 as defined in Section 4022 of the Code, on the Internet for delivery to any person in this state
22 without a prescription issued pursuant to a good faith prior examination of a human or animal for
23 whom the prescription is meant if the person or entity either knew or reasonably should have
24 known that the prescription was not issued pursuant to a good faith prior examination of a human
25 or animal, or if the person or entity did not act in accordance with Section 1761 of Title 16 of the
26 California Code of Regulations. A "good faith prior examination" includes the requirements for a
27 physician and surgeon in Section 2242 of the Code and the requirements for a veterinarian in
28 Section 2032.1 of Title 16 of the California Code of Regulations.

1 15. Title 16 of the California Code of Regulations, section 1711 states, in pertinent part:

2
3 "(c)(1) Each quality assurance program shall be managed in accordance with written
4 policies and procedures maintained in the pharmacy in an immediately retrievable form.

5 16. California Code of Regulations, Title 16, section 1714, states in pertinent part:

6
7 (d) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and
8 equipment so that drugs are safely and properly prepared, maintained, secured and distributed.
9 The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice
10 of pharmacy.

11 (e) The pharmacy owner, the building owner or manager, or a family member of a
12 pharmacist owner (but not more than one of the aforementioned) may possess a key to the
13 pharmacy that is maintained in a tamper evident container for the purpose of 1) delivering the key
14 to a pharmacist or 2) providing access in case of emergency. An emergency would include fire,
15 flood or earthquake. The signature of the pharmacist-in-charge shall be present in such a way that
16 the pharmacist may readily determine whether the key has been removed from the container.

17 17. California Code of Regulations, title 16, section 1761, states:

18 "(a) No pharmacist shall compound or dispense any prescription which contains any
19 significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any
20 such prescription, the pharmacist shall contact the prescriber to obtain the information needed to
21 validate the prescription.

22 (b) Even after conferring with the prescriber, a pharmacist shall not compound or dispense
23 a controlled substance prescription where the pharmacist knows or has objective reason to know
24 that said prescription was not issued for a legitimate medical purpose."

25 18. Section 4067(b) of the Code provides, in pertinent part, that a violation of Code
26 section 4067 subjects a person or entity to either a fine of up to twenty-five thousand dollars
27 (\$25,000) per occurrence pursuant to a citation issued by the board or a civil penalty of twenty-
28 five thousand dollars (\$25,000) per occurrence.

1 19. Title 21 of the Code of Federal Regulations, section 1304.11 requires that a pharmacy
2 keep a complete and accurate inventory record of all controlled substances on hand.

3 20. Section 125.3 of the Code provides, in pertinent part, that the
4 Board/Registrar/Director may request the administrative law judge to direct a licentiate found to
5 have committed a violation or violations of the licensing act to pay a sum not to exceed the
6 reasonable costs of the investigation and enforcement of the case.

7 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

8 21. Section 4021 of the Code provides that a "controlled substance" means any substance
9 listed in Schedules I through V contained in Health and Safety Code section 11053 et seq.

10 22. Section 4022 of the Code states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe
11 for self-use in humans or animals, and includes the following:

12 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
without prescription," "Rx only," or words of similar import.

13 (b) Any device that bears the statement: "Caution: federal law restricts this device
14 to sale by or on the order of a _____," "Rx only," or words of similar import, the
blank to be filled in with the designation of the practitioner licensed to use or order
use of the device.

15 (c) Any other drug or device that by federal or state law can be lawfully dispensed
only on prescription or furnished pursuant to Section 4006.

16 23. **Hydrocodone/APAP** is the generic name for **Vicodin**, a combination narcotics used
17 to relieve moderate to severe pain, and is a Schedule III controlled substance as listed in Health
18 and Safety Code section 11056(e)(4).

19 24. **Ibuprofen** was and is the generic name for the trade name drug **Motrin 600**, which is
20 designated as a dangerous drug by Business and Professions Code section 4022. **Ibuprofen** is a
21 non-steroidal, anti-inflammatory drug and is used for the treatment of fever, pain, inflammation,
22 and stiffness.

23 25. **Codeine/APAP** is a brand name for **Codeine** with acetaminophen and a Schedule III
24 controlled substance pursuant to Health and Safety Code section 11056(e) and a dangerous drug
25 pursuant to Business and Professions Code section 4022.

26 26. **Alprazolam**, also known under the brand name **Xanax**, is a Schedule IV controlled
27 substance as designated by Health and Safety Code section 11057(d)(1), and is a drug of the
28 benzodiazepine class used to treat anxiety and panic attacks.

1 27. **Diazepam**, also known as **Valium**, is a Schedule IV controlled substance pursuant to
2 Health and Safety Code section 11057(d)(9) and a dangerous drug pursuant to Business and
3 Professions Code section 4022. **Valium** is indicated for the management of anxiety disorders or
4 for the short-term relief of the symptoms of anxiety.

5 28. **Fioricet** is a brand name and made from the combination of **Butalbital** a barbiturate,
6 **Acetaminophen**, and **Caffeine**. It is a dangerous drug pursuant to Business and Professions
7 Code section 4022 and is used to treat tension headaches that are caused by muscle contractions.

8 29. **Soma** is a brand name for **Carisoprodol**, a centrally-acting skeletal muscle relaxant
9 and a dangerous drug pursuant to Business and Professions Code section 4022.

10 **CAUSES FOR DISCIPLINE, AS TO BOTH RESPONDENTS**

11 FIRST CAUSE FOR DISCIPLINE

12 (Improper Dispensing or Furnishing Dangerous Drugs on the Internet)

13 30. Respondents are subject to discipline under Code section 4067(a), in that between on
14 or about July 30, 2007 and December 11, 2007, Respondents dispensed, furnished, or caused to
15 be dispensed or furnished, dangerous drugs, as defined in Code section 4022, on the Internet for
16 delivery to persons in the state of California without a prescription issued pursuant to a good faith
17 prior examination, and the Respondents knew or reasonably should have known that the
18 prescription was not issued pursuant to a good faith prior examination, or the Respondents did
19 not act in accordance with Section 1761 of Title 16 of the California Code of Regulations:

20 a. Dispensing or furnishing two hundred fifty-six (256) prescriptions for dangerous
21 drugs, including **Hydrocodone/APAP, Ibuprofen, APAP/Codeine, Alprazolam, Diazepam,**
22 **Fioricet and Soma.**

23 SECOND CAUSE FOR DISCIPLINE

24 (Dispensing of Erroneous or Uncertain Prescriptions(s))

25 31. Respondents are each and severally subject to discipline under section(s) 4301(j), (o),
26 and/or 4113(c) of the Code, and/or California Code of Regulations, title 16, section 1761, in that
27 between on or about July 30, 2007 and December 11, 2007, Respondents dispensed, attempted to
28 dispense, assisted or abetted the dispensing of, and/or conspired to dispense, prescription(s)

1 containing one or more significant errors, omissions, irregularities, uncertainties, ambiguities or
2 alterations, without contacting the prescriber to validate the prescription, and/or having objective
3 reason(s) to know that the prescription(s) was/were not issued for a legitimate medical purpose.

4 THIRD CAUSE FOR DISCIPLINE

5 (Unauthorized Access to Pharmacy)

6 32. Respondents are subject to disciplinary action pursuant to section 4300 and 4301(j)
7 and (o) for violation of Code of Regulations, title 16, section 1714 in that Respondents allowed
8 access to Acton Pharmacy and its supply of dangerous drugs to an unauthorized individual.

9 FOURTH CAUSE FOR DISCIPLINE

10 (No Quality Assurance Program)

11 33. Respondents failed to develop a Quality Assurance Program, the pharmacist, clerk,
12 and technician could not find a Quality Assurance policy and procedure at Acton Pharmacy in
13 violation of Code sections 4301(j), (o) and California Code of Regulations section 1711. No
14 Quality Assurance Program was discovered during the audit and inspection of Acton Pharmacy
15 on May 20, 2009.

16 FOURTH CAUSE FOR DISCIPLINE

17 (No DEA Inventory)

18 34. Respondents failed to undertake a DEA inventory of controlled substances and
19 dangerous drugs at least bi-annually while Pharmacist-In-Charge of Acton Pharmacy in violation
20 of Code sections 4301 sections (j), (o), and Title 21, Code of Federal Regulations 1304.11(c).
21 During the inspection of the Acton Pharmacy on May 20, 2009, by the Board investigator, the
22 latest DEA inventory found was completed on January 2007.

23 DISCIPLINARY CONSIDERATION

24 35. To determine the degree of discipline, if any, to be imposed on Respondents,
25 Complainant alleges that on or about January 16, 2008, in a prior action, the Board of Pharmacy
26 issued Citation Number CI 2006 34043 and CI 2007 35033 and ordered Respondents to pay a
27 civil penalty of \$4,500.00 and immediately take such measures as are necessary to practice at an
28 acceptable standard of care. That Citation is now final and is incorporated by reference as if fully


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set forth.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Original Permit Number PHY 48219, issued to PalmerRx, Inc. dba Acton Pharmacy; Hannah Mason (Respondent PalmerRx);
2. Revoking or suspending Original Pharmacist License Number RPH 46923 issued to Hannah Mason (Respondent Mason);
3. Ordering Respondent PalmerRx and Respondent Mason to jointly and severally pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
4. Taking such other and further action as deemed necessary and proper.

DATED: November 28, 2011  for
VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

LA2010601520
50996409.doc

Exhibit B

Testimonial Letter

HANNAH MASON

Acton Pharmacy

3630 Smith Avenue

Acton, CA 93510

11/29/2011

Re: Pharmacy License No. RPH 46923 and PHY 48219

To my colleagues licensed by the California State Board of Pharmacy:

I am embarrassed to have to write this letter. My extreme short sightedness led me to accept a proposal by an internet company, claiming to be legitimate and offered me \$5.00 dollars per prescription, to fill prescriptions sent to the pharmacy via the internet. I am ashamed because I have had an unblemished professional record for over 17 years, and I am well respected and trusted in my community.

In 2008, I was contacted over the telephone by a representative of a company requesting that I fill prescriptions that would be sent via the internet to my pharmacy and unfortunately, I accepted the offer. I was promised \$5.00 dollars per prescription. He promised me that it was a way to make a little extra cash. That promise of easy, extra money blinded me to aspects of the arrangement that were illegal as well as professional misconduct.

I then proceeded to verify and secure the licenses and DEA numbers of the prescribing doctors on file. I noticed that these patients were from all over the country. I thought at that time that it was okay, since these were legitimate doctors and I was able to verify their license and DEA numbers. I thought all that was required of me was to fill the prescriptions accurately and ship them to the respective patients. I also realized that the drugs I was shipping were primarily controlled drugs...vicodin, vicodin extra strength, Tylenol with codeine # 3, etc., but I was receiving all of the appropriate prescriptions forms in order to comply the law. I also received payment for all those prescriptions dispensed.

Apparently, I did not give this proposal a thought before agreeing to fill those prescriptions. I should have paid more attention to and thought more about all the information on the prescriptions. I was constantly getting prescriptions from these same set of doctors, who were prescribing mostly controlled medications, mostly pain killers, to patients who lived in different states from the prescribing doctors' offices. In retrospect, I should have questioned whether those doctors were really seeing those patients or communicating with them, much less examining them before prescribing the medications. I never directly confirmed that they were in good faith prior to examination of the patients by the prescribing doctors before filling the prescriptions.

I honestly did not think of the possibility that there was not a professional examination and no doctor/patient relationship. In retrospect, the nature of those prescriptions (pain killers), should have alerted me to the potential danger and impropriety. I now know that I could have been charged with criminal felonies in both state and federal courts. I continued to fill those prescriptions for about 6 months. I filled about 250 prescriptions. The money made was minimal, compared to the grief I am experiencing. I regret ever getting involved with these internet companies.

Then I received a letter from the DEA stating that this practice was illegal, and I immediately stopped. I received a call from the state board of Massachusetts, at one point and time that one of my prescriptions with my pharmacy label was found in that state. I assume that was what started the investigation. My pharmacy was visited by two inspectors from the California State Board of Pharmacy, and a series of evidence pertaining to the internet prescriptions were obtained. I cooperated with them fully. The investigations have resulted in me incurring significant fines both to the State Board of Pharmacy, and my license to be put on probation, with a number of conditions attached to these penalties. Those penalties are many times the money I made filling those internet prescriptions.

My fines could have been much higher. The State of California could have fined me and the pharmacy, \$6,000.000 dollars each. I received citations for that amount for both myself and the pharmacy. I collapsed when I received those documents.

The practice of filling prescriptions over the internet for patients previously unknown to my practice is dangerous to the patient and dangerous to the patient. I have come to realize that in many instances, patients contacted doctors only through a website, and that they never had any personal contact with the physician. Few questionnaires were filled on the website by the patient, which resulted in the writing of a prescription by the doctor, which was transmitted to me over the internet and filled by me and mailed to the patients in various states. I also never had any personal contact with these individuals or the prescribing physicians. It is apparent that the doctor should not be issuing prescriptions to patients they have never seen, or had any personal contact with, and I should not have been filling those prescriptions.

In retrospect, I now see the purpose of the law. Many potential drug abusers, who are not able to obtain controlled substances through a legitimate doctor relationship, turn to the internet to continue the abusive practices. Filling of prescriptions under those circumstances makes the pharmacist an enabler, if not worse than that. By filling internet prescriptions, we are exposing people to unknown risks from drugs about which they have never realistically consulted a physician. Drug interactions can result from this and can lead to severe complications, including death. I was also made to be aware that if injury occurs to a person to whom I supplied drugs to over the internet, I could be held liable for their damages. It is a liability that my insurance would not cover.

I am also aware that we are in the electronic age, and more and more communications are being done via e-mails and internet. These forms of communications have a potential for abuse and as health care providers, we all have to be on guard to prevent abuse. Someone else made a lot of money through this practice, and I was unfortunately a part of it. However, without the pharmacist, this scheme cannot

Acton Pharmacy
422 W. 10th St.
Acton, MA 01725

work. We must all be careful, and make sure we screen prescriptions with caution. We are the most trusted profession and the public relies on us for protection. Again I am sorry to have been such a disgrace to my profession.

Sincerely Hannah Mason

Hannah Mason
Acton pharmacy

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