

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

In the Matter of the Accusation Against:

**UNITED FAMILY PHARMACY, LLC;
DBA UNITED FAMILY PHARMACY, PHY 55735**

and

JOHN CLAY BLANKS, RPH 46087

and

AFM N. HASAN, RPH 36127

Respondents

Case number 6803

OAH No. 2020070466

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 at 5:00 p.m. on February 4, 2021.

It is so ORDERED on January 5, 2021.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Greg M. Lippe", written in a cursive style.

By

Greg Lippe
Board President

1 XAVIER BECERRA
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 STEPHEN A. ARONIS
Deputy Attorney General
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Attorneys for Complainant
8

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

13 In the Matter of the Accusation Against:

14 **UNITED FAMILY PHARMACY, LLC;**
15 **DBA UNITED FAMILY PHARMACY**
16 **1221 S. San Jacinto Ave**
17 **San Jacinto, CA 92583**

18 **Pharmacy Permit No. PHY 55735,**

19 **JOHN CLAY BLANKS**
20 **725 E. San Lorenzo Road #5**
21 **Palm Springs, CA 92264**

22 **Pharmacist License No. RPH 46087,**

23 **and**

24 **AFM N. HASAN**
25 **41235 Polly Butte Road**
26 **Hemet, CA 92544**

27 **Pharmacist License No. RPH 36127**

28 Respondents.

Case No. 6803

OAH No. 2020070466

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER, AS TO JOHN
CLAY BLANKS, ONLY**

1 IT IS HEREBY STIPULATED AND AGREED by and between Complainant and
2 Respondent John Clay Blanks only, that the following matters are true:

3 **PARTIES**

4 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
5 (Board). She brought this action solely in her official capacity and is represented in this matter by
6 Xavier Becerra, Attorney General of the State of California, by Stephen A. Aronis, Deputy
7 Attorney General.

8 2. Respondent John Clay Blanks (Respondent Blanks) is represented in this proceeding
9 by attorney Armond Marcarian of the Marcarian Law Firm, whose address is: 21650 Oxnard
10 Street, Suite 1980, Woodland Hills, CA 91367.

11 3. On or about March 18, 1993, the Board issued Pharmacist License No. RPH 46087 to
12 Respondent Blanks. The Pharmacist License was in full force and effect at all times relevant to
13 the charges brought in Accusation No. 6803, expired on August 31, 2020 and has not been
14 renewed.

15 **JURISDICTION**

16 4. Accusation No. 6803 was filed before the Board, and is currently pending against
17 Respondent Blanks. The Accusation and all other statutorily required documents were properly
18 served on Respondent Blanks on April 6, 2020. Respondent Blanks timely filed his Notice of
19 Defense contesting the Accusation.

20 5. A copy of Accusation No. 6803 is attached as Exhibit A and incorporated herein by
21 reference.

22 **ADVISEMENT AND WAIVERS**

23 6. Respondent Blanks has carefully read, fully discussed with counsel, and understands
24 the charges and allegations in Accusation No. 6803. Respondent Blanks has also carefully read,
25 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
26 Disciplinary Order.

27 7. Respondent Blanks is fully aware of his legal rights in this matter, including the right
28 to a hearing on the charges and allegations in the Accusation; the right to confront and cross-

1 examine the witnesses against him; the right to present evidence and to testify on his own behalf;
2 the right to the issuance of subpoenas to compel the attendance of witnesses and the production of
3 documents; the right to reconsideration and court review of an adverse decision; and all other
4 rights accorded by the California Administrative Procedure Act and other applicable laws.

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

7 **CULPABILITY**

8 9. Respondent Blanks understands and agrees that the charges and allegations in
9 Accusation No. 6803, if proven at a hearing, constitute cause for imposing discipline upon his
10 Pharmacist License.

11 10. For the purpose of resolving the Accusation without the expense and uncertainty of
12 further proceedings, Respondent Blanks agrees that, at a hearing, Complainant could establish a
13 factual basis for the charges in the Accusation, and that Respondent Blanks hereby gives up his
14 right to contest those charges.

15 11. Respondent Blanks agrees that his Pharmacist License is subject to discipline and he
16 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order
17 below.

18 **CONTINGENCY**

19 12. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
20 Blanks understands and agrees that counsel for Complainant and the staff of the Board of
21 Pharmacy may communicate directly with the Board regarding this stipulation and settlement,
22 without notice to or participation by Respondent Blanks or his counsel. By signing the
23 stipulation, Respondent Blanks understands and agrees that he may not withdraw his agreement
24 or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the
25 Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and
26 Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible
27 in any legal action between the parties, and the Board shall not be disqualified from further action
28 by having considered this matter.

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 46087 issued to Respondent John Clay Blanks is revoked. However, the revocation is stayed and Respondent Blanks is placed on probation for three (3) years on the following terms and conditions:

1. Obey All Laws

Respondent Blanks shall obey all state and federal laws and regulations.

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

- 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
- a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves

Respondent Blanks' license 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.

Failure to timely report any such occurrence shall be considered a violation of probation.

2. Report to the Board

Respondent Blanks shall report to the Board quarterly, on a schedule as directed by the Board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, Respondent Blanks shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation.

Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the Board.

3. Interview with the Board

Upon receipt of reasonable prior notice, Respondent Blanks shall appear in person for interviews with the Board or its designee, at such intervals and locations as are determined by the Board or its designee. Failure to appear for any scheduled interview without prior notification to Board staff, or failure to appear for two (2) or more scheduled interviews with the Board or its designee during the period of probation, shall be considered a violation of probation.

4. Cooperate with Board Staff

Respondent Blanks shall timely cooperate with the Board's inspection program and with the Board's monitoring and investigation of Respondent Blank's compliance with the terms and conditions of his probation, including but not limited to: timely responses to requests for information by Board staff; timely compliance with directives from Board staff regarding requirements of any term or condition of probation; and timely completion of documentation pertaining to a term or condition of probation. Failure to timely cooperate shall be considered a violation of probation.

1 **5. Continuing Education**

2 Respondent Blanks shall provide evidence of efforts to maintain skill and knowledge as a
3 pharmacist as directed by the Board or its designee.

4 **6. Reporting of Employment and Notice to Employers**

5 During the period of probation, Respondent Blanks shall notify all present and prospective
6 employers of the Decision in case number 6803 and the terms, conditions and restrictions
7 imposed on Respondent Blanks by the Decision, as follows:

8 Within 30 days of the effective date of this Decision, and within 10 days of undertaking any
9 new employment, Respondent Blanks shall report to the Board in writing the name, physical
10 address, and mailing address of each of his employer(s), and the name(s) and telephone
11 number(s) of all of his direct supervisor(s), as well as any pharmacist(s)-in- charge, designated
12 representative(s)-in-charge, responsible manager, or other compliance supervisor(s) and the work
13 schedule, if known. Respondent Blanks shall also include the reason(s) for leaving the prior
14 employment. Respondent Blanks shall sign and return to the Board a written consent authorizing
15 the Board or its designee to communicate with all of Respondent Blanks' employer(s) and
16 supervisor(s), and authorizing those employer(s) or supervisor(s) to communicate with the Board
17 or its designee, concerning Respondent Blanks' work status, performance, and monitoring.
18 Failure to comply with the requirements or deadlines of this condition shall be considered a
19 violation of probation.

20 Within 30 days of the effective date of this Decision, and within 15 days of Respondent
21 Blanks undertaking any new employment, Respondent Blanks shall cause (a) his direct
22 supervisor, (b) his pharmacist-in-charge, designated representative-in-charge, responsible
23 manager, or other compliance supervisor, and (c) the owner or owner representative of his
24 employer, to report to the Board in writing acknowledging that the listed individual(s) has/have
25 read the Decision in case number 6803, and terms and conditions imposed thereby. If one person
26 serves in more than one role described in (a), (b), or (c), the acknowledgment shall so state. It
27 shall be Respondent Blanks' responsibility to ensure that these acknowledgment(s) are timely
28 submitted to the Board. In te event of a change in the person(s) serving the role(s) described in

1 (a), (b), or (c) during the term of probation, Respondent Blanks shall cause the person(s) taking
2 over the role(s) to report to the Board in writing within fifteen (15) days of the change
3 acknowledging that he or she has read the Decision in case number 6803, and the terms and
4 conditions imposed thereby.

5 If Respondent Blanks works for or is employed by or through an employment service,
6 Respondent Blanks must notify the person(s) described in (a), (b), and (c) above at every entity
7 licensed by the Board of the Decision in case number 6803, and the terms and conditions imposed
8 thereby in advance of Respondent Blanks commencing work at such licensed entity. A record of
9 this notification must be provided to the Board upon request.

10 Furthermore, within 30 days of the effective date of this Decision, and within 15 days of
11 Respondent Blanks undertaking any new employment by or through an employment service,
12 Respondent Blanks shall cause the person(s) described in (a), (b), and (c) above at the
13 employment service to report to the Board in writing acknowledging that he or she has read the
14 decision in case number, and the terms and conditions imposed thereby. It shall be Respondent
15 Blank's responsibility to ensure that these acknowledgment(s) are timely submitted to the Board.

16 Failure to timely notify present or prospective employer(s) or failure to cause the identified
17 person(s) with that/those employer(s) to submit timely written acknowledgments to the Board
18 shall be considered a violation of probation.

19 "Employment" within the meaning of this provision includes any full-time, part-time,
20 temporary, relief, or employment/management service position as a pharmacist, or any position
21 for which a pharmacist is a requirement or criterion for employment, whether the Respondent
22 Blanks is an employee, independent contractor or volunteer.

23 **7. Notification of Change(s) in Name, Address(es), or Phone Number(s)**

24 Respondent Blanks shall further notify the Board in writing within ten (10) days of any
25 change in name, residence address, mailing address, e-mail address or phone number.

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

28 ///

1 **8. Restrictions on Supervision and Oversight of Licensed Facilities**

2 During the period of probation, Respondent Blanks shall not supervise any intern
3 pharmacist, be the pharmacist-in-charge, designated representative-in-charge, responsible
4 manager or other compliance supervisor of any entity licensed by the Board, nor serve as a
5 consultant. Assumption of any such unauthorized supervision responsibilities shall be considered
6 a violation of probation.

7 **9. Reimbursement of Board Costs**

8 As a condition precedent to successful completion of probation, Respondent Blanks shall
9 pay to the Board its costs of investigation and prosecution in the amount of \$2,229.67.

10 Respondent Blanks shall make said payments as follows:

11 Respondent Blanks shall be permitted to pay these costs in a payment plan approved by the
12 Board or its designee, so long as full payment is completed no later than one (1) year prior to the
13 end date of probation.

14 There shall be no deviation from this schedule absent prior written approval by the Board or
15 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
16 probation.

17 **10. Probation Monitoring Costs**

18 Respondent Blanks shall pay any costs associated with probation monitoring as determined
19 by the Board each and every year of probation. Such costs shall be payable to the board on a
20 schedule as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as
21 directed shall be considered a violation of probation.

22 **11. Status of License**

23 Respondent Blanks shall, at all times while on probation, maintain an active, current
24 Pharmacist License with the Board, including any period during which suspension or probation is
25 tolled. Failure to maintain an active, current Pharmacist License shall be considered a violation
26 of probation.

27 If Respondent Blanks' Pharmacist License expires or is cancelled by operation of law or
28 otherwise at any time during the period of probation, including any extensions thereof due to

1 tolling or otherwise, upon renewal or reapplication Respondent Blanks' license shall be subject to
2 all terms and conditions of this probation not previously satisfied.

3 **12. License Surrender While on Probation/Suspension**

4 Following the effective date of this Decision, should Respondent Blanks cease practice due
5 to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
6 Respondent Blanks may relinquish his license, including any indicia of licensure issued by the
7 Board, along with a request to surrender the license. The Board or its designee shall have the
8 discretion whether to accept the surrender or take any other action it deems appropriate and
9 reasonable. Upon formal acceptance of the surrender of the license, Respondent Blanks will no
10 longer be subject to the terms and conditions of probation. This surrender constitutes a record of
11 discipline and shall become a part of Respondent Blanks' license history with the Board.

12 Upon acceptance of the surrender, Respondent Blanks shall relinquish his pocket and/or
13 wall license, including any indicia of licensure not previously provided to the Board within 10
14 days of notification by the Board that the surrender is accepted if not already provided.
15 Respondent Blanks may not reapply for any license from the Board for 3 years from the effective
16 date of the surrender. Respondent Blanks shall meet all requirements applicable to the license
17 sought as of the date the application for that license is submitted to the Board, including any
18 outstanding costs.

19 **13. Practice Requirement – Extension of Probation**

20 Except during periods of suspension, Respondent Blanks shall, at all times while on
21 probation, be employed as a pharmacist in California for a minimum of 80 hours per calendar
22 month. Any month during which this minimum is not met shall extend the period of probation by
23 one month. During any such period of insufficient employment, Respondent Blanks must
24 nonetheless comply with all terms and conditions of probation, unless Respondent Blanks
25 receives a waiver in writing from the Board or its designee.

26 If Respondent Blanks does not practice as a pharmacist in California for the minimum
27 number of hours in any calendar month, for any reason (including vacation), Respondent Blanks
28 shall notify the Board in writing within 10 days of the conclusion of that calendar month. This

notification shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the interruption or reduction in practice; and the anticipated date(s) on which Respondent Blanks will resume practice at the required level. Respondent Blanks shall further notify the Board in writing within 10 days following the next calendar month during which Respondent Blanks practices as a pharmacist in California for the minimum of hours. Any failure to timely provide such notification(s) shall be considered a violation of probation.

It is a violation of probation for Respondent Blanks' probation to be extended pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding 36 months. The Board or its designee may post a notice of the extended probation period on its website.

14. Violation of Probation

If Respondent Blanks has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over Respondent Blanks, and the Board shall provide notice to Respondent Blanks that 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 that was stayed. The Board or its designee may post a notice of the extended probation period on its website.

If Respondent Blanks violates probation in any respect, the Board, after giving Respondent Blanks notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If a petition to revoke probation or an accusation is filed against Respondent Blanks during probation, or the preparation of an accusation or petition to revoke probation is requested from the Office of the Attorney General, the Board shall have continuing jurisdiction and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided, and the charges and allegations in Accusation No. 6803 shall be deemed true and correct.

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1 **15. Completion of Probation**

2 Upon written notice by the Board or its designee indicating successful completion of
3 probation, Respondent Blanks' license will be fully restored.

4 **16. Remedial Education**

5 Within 60 days of the effective date of this Decision, Respondent Blanks shall submit to the
6 Board or its designee, for prior approval, an appropriate program of remedial education related to
7 the causes for discipline and prescription drug abuse prevention. The program of remedial
8 education shall consist of at least 10 hours per year of probation, which shall be completed 50%
9 in person or live webinar at Respondent Blanks' own expense. All remedial education shall be in
10 addition to, and shall not be credited toward, continuing education (CE) courses used for license
11 renewal purposes for pharmacists.

12 Failure to timely submit for approval or complete the approved remedial education shall be
13 considered a violation of probation. The period of probation will be automatically extended until
14 such remedial education is successfully completed and written proof, in a form acceptable to the
15 Board, is provided to the Board or its designee.

16 Within the first year of probation, Respondent Blanks shall enroll in the Board's one-day
17 diversion training program, "Prescription Drug Abuse and Diversion What a Pharmacist Needs to
18 Know," at Respondent Blanks' expense. Respondent Blanks shall provide proof of enrollment
19 upon request. Within 30 days of completion, Respondent Blanks shall submit a copy of the
20 certificate of completion to the Board or its designee. Failure to timely enroll in the program, to
21 initiate the program during the first year of probation, to successfully complete it before the end
22 of the second year of probation, or to timely submit proof of completion to the Board or its
23 designee, shall be considered a violation of probation.

24 Following the completion of each course, the Board or its designee may require
25 Respondent Blanks, at his own expense, to take an approved examination to test Respondent
26 Blanks' knowledge of the course. If Respondent Blanks does not achieve a passing score on the
27 examination that course shall not count towards satisfaction of this term. Respondent Blanks
28 shall take another course approved by the Board in the same subject area.

1 **17. Ethics Course**

2 Within 60 calendar days of the effective date of this decision, Respondent Blanks shall
3 enroll in a course in ethics, at Respondent Blanks' expense, approved in advance by the Board or
4 its designee that complies with Title 16 California Code of Regulations section 1773.5.
5 Respondent Blanks shall provide proof of enrollment upon request. Within 5 days of completion,
6 Respondent Blanks shall submit a copy of the certificate of completion to the Board or its
7 designee. Failure to timely enroll in an approved ethics course, to initiate the course during the
8 first year of probation, to successfully complete it before the end of the second year of probation,
9 or to timely submit proof of completion to the Board or its designee, shall be considered a
10 violation of probation.

11 **18. No Ownership or Management of Licensed Premises**

12 Respondent Blanks shall not own, have any legal or beneficial interest in, nor serve as a
13 manager, administrator, member, officer, director, trustee, associate, or partner of any business,
14 firm, partnership, or corporation currently or hereinafter licensed by the Board. Respondent
15 Blanks shall sell or transfer any legal or beneficial interest in any entity licensed by the Board
16 within 90 days following the effective date of this Decision and shall immediately thereafter
17 provide written proof thereof to the Board. Failure to timely divest any legal or beneficial
18 interest(s) or provide documentation thereof shall be considered a violation of probation.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Armond Marcarian of the Marcarian Law Firm. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: _____

JOHN CLAY BLANKS
Respondent

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

DATED: _____

ARMOND MARCARIAN
Attorney for Respondent

ENDORSEMENT

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

DATED: _____

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General

STEPHEN A. ARONIS
Deputy Attorney General
Attorneys for Complainant

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Armond Marcarian of the Marcarian Law Firm. I understand the
4 stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated
5 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
6 bound by the Decision and Order of the Board of Pharmacy.

7
8 DATED: Nov 19, 2020 John Clay Blanks
9 JOHN CLAY BLANKS
Respondent

10 I have read and fully discussed with Respondent John Clay Blanks the terms and conditions
11 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
12 its form and content.

13 DATED: November 19, 2020 Armond Marcarian
14 ARMOND MARCARIAN
Attorney for Respondent

15 ENDORSEMENT

16
17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the Board of Pharmacy.

19
20 DATED: 11/15/20
21 Respectfully submitted,
22 XAVIER BECERRA
Attorney General of California
23 GREGORY J. SALUTE
Supervising Deputy Attorney General
24 Stephen A. Aronis
25 STEPHEN A. ARONIS
Deputy Attorney General
26 Attorneys for Complainant

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Exhibit A

Accusation No. 6803

1 XAVIER BECERRA
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 STEPHEN A. ARONIS
Deputy Attorney General
4 State Bar No. 204995
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P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9451
7 Facsimile: (619) 645-2581
Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

Case No. 6803

14 **UNITED FAMILY PHARMACY, LLC,**
15 **DBA UNITED FAMILY PHARMACY**
1221 S. San Jacinto Ave
San Jacinto, CA 92583

ACCUSATION

16 **Pharmacy Permit No. PHY 55735,**

17 **AFM N. HASAN**
18 **41235 Polly Butte Road**
Hemet, CA 92544

19 **Pharmacist License No. RPH 36127,**

20 **and**

21 **JOHN CLAY BLANKS**
22 **725 E. San Lorenzo Road #5**
Palm Springs, CA 92264

23 **Pharmacist License No. RPH 46087**

24 Respondents.

1 **PARTIES**

2 1. Anne Sodergren (Complainant) brings this Accusation solely in her official capacity
3 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board).

4 2. On or about August 31, 2017, the Board issued Pharmacy Permit Number PHY
5 55735 to United Family Pharmacy, LLC, dba United Family Pharmacy (Respondent United
6 Family Pharmacy). The Pharmacy Permit was in full force and effect at all times relevant to the
7 charges brought herein and will expire on August 1, 2020, unless renewed.

8 3. On or about December 24, 1980, the Board issued Pharmacist License Number RPH
9 36127 to Afm N. Hasan (Respondent Hasan). The Pharmacist License was in full force and
10 effect at all times relevant to the charges brought herein and will expire on October 31, 2020,
11 unless renewed. Respondent Hasan was the pharmacist-in-charge for Respondent United Family
12 Pharmacy between December 18, 2017, and January 7, 2019.

13 4. On or about March 18, 1993, the Board issued Pharmacist License Number RPH
14 46087 to John Clay Blanks (Respondent Blanks). The Pharmacist License was in full force and
15 effect at all times relevant to the charges brought herein and will expire on August 31, 2020,
16 unless renewed. Respondent Blanks was the pharmacist-in-charge for Respondent United Family
17 Pharmacy between January 8, 2019, and March 22, 2019.

18 **JURISDICTION**

19 5. This Accusation is brought before the Board under the authority of the following
20 laws. All section references are to the Business and Professions Code (Code) unless otherwise
21 indicated.

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

25 7. Section 4300, subdivision (a) of the Code provides that every license issued by the
26 Board may be suspended or revoked.

1 8. Section 4300.1 of the Code states:

2 The expiration, cancellation, forfeiture, or suspension of a board-issued
3 license by operation of law or by order or decision of the board or a court of law,
4 the placement of a license on a retired status, or the voluntary surrender of a
5 license by a licensee shall not deprive the board of jurisdiction to commence or
6 proceed with any investigation of, or action or disciplinary proceeding against, the
7 licensee or to render a decision suspending or revoking the license.

8 **STATUTORY PROVISIONS**

9 9. Section 4022 of the Code states

10 "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
13 dispensing without prescription," "Rx only," or words of similar import.

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

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

20 10. Section 4081 of the Code states:

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

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

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

1 11. Section 4105, subdivision (a) of the Code states:

2 All records or other documentation of the acquisition and disposition of
3 dangerous drugs and devices by any entity licensed by the board shall be retained on
4 the licensed premises in a readily retrievable form.

5 12. Section 4113, subdivision (c) of the Code states:

6 The pharmacist-in-charge shall be responsible for a pharmacy's compliance
7 with all state and federal laws. and regulations pertaining to the practice of pharmacy.

8 13. Section 4301 of the Code states in pertinent part:

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

12 ...

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

15 ...

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

21 14. Section 4307, subdivision (a) of the Code states that:

22 Any person who has been denied a license or whose license has been revoked
23 or is under suspension, or who has failed to renew his or her license while it was
24 under suspension, or who has been a manager, administrator, owner member, officer,
25 director, associate, or partner of any partnership, corporation, firm, or association
26 whose application for a license has been denied or revoked, is under suspension or
27 has been placed on probation, and while acting as the manger, administrator, owner,
28 member, officer, director, associate, or partner had knowledge or knowingly
29 participated in any conduct for which the license was denied, revoked, suspended, or
30 placed on probation, shall be prohibited from serving as a manger, administrator,
31 owner, member, officer, director, associate, or partner of a licensee as follows:

32 (1) Where a probationary license is issued or where an existing license is placed
33 on probation, this prohibition shall remain in effect for a period not to exceed five
34 years.

35 (2) Where the license is denied or revoked, the prohibition shall continue until
36 the license is issued or reinstated.

15. Health and Safety Code section 11165(d) states:

For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance, as defined in the controlled substances schedules in federal law and regulations, specifically Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21 of the Code of Federal Regulations, the dispensing pharmacy or clinic shall provide the following information to the Department of Justice on a weekly basis and in a format specified by the Department of Justice:

(1) Full name, address, and the telephone number of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services, and the gender, and date of birth of the ultimate user.

(2) The prescriber's category of licensure and license number; federal controlled substance registration number; and the state medical license number of any prescriber using the federal controlled substance registration number of a government-exempt facility.

(3) Pharmacy prescription number, license number, and federal controlled substance registration number.

(4) NDC (National Drug Code) number of the controlled substance dispensed.

(5) Quantity of the controlled substance dispensed.

(6) ICD-9 (diagnosis code), if available.

(7) Number of refills ordered.

(8) Whether the drug was dispensed as a refill of a prescription or as a first-time request.

(9) Date of origin of the prescription.

(10) Date of dispensing of the prescription.

REGULATORY PROVISIONS

16. Section 1714, subdivisions (b) and (d) of title 16, California Code of Regulations state:

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

(d) Each pharmacist while on duty shall be responsible for the security of the prescription department, including provisions for effective control against theft or diversion of drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist.

17. California Code of Regulations, title 16, section 1718, states:

“Current Inventory” as used in Sections 4081 and 4332 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332.

The controlled substances inventories required by Title 21, CFR, Section 1304 shall be available for inspection upon request for at least 3 years after the date of the inventory.

COST RECOVERY

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

DRUGS

19. Alprazolam is a Schedule IV controlled substance pursuant to Health & Safety Code section 11057, subdivision (d) (1) and a dangerous drug pursuant to Business and Professions Code section 4022. It is a drug of high abuse and diversion potential.

20. Phenergan with Codeine is the brand name for promethazine with codeine syrup, and is a Schedule V controlled substance pursuant to Health and Safety Code section 11058, subdivision (c)(1), and a dangerous drug pursuant to Business and Professions Code section 4022. It is a drug of high abuse and diversion potential.

FACTUAL ALLEGATIONS

21. Respondent United Family Pharmacy is a community pharmacy located in San Jacinto, California. From December 18, 2017 through January 7, 2019, Respondent Hasan was the Pharmacist-in-Charge of Respondent United Family Pharmacy. From January 8, 2019 to the March 22, 2019, Respondent Blanks was the Pharmacist-in-Charge of Respondent United Family Pharmacy.

1 22. From August 31, 2017 through April 8, 2019, Respondents did not dispense
2 promethazine with codeine, but Respondent United Family Pharmacy ordered unusually large
3 amounts of promethazine with codeine and alprazolam. Respondents' wholesaler delivered that
4 promethazine with codeine and alprazolam to Respondent United Family Pharmacy.
5 Respondents Hasan and Blanks both signed for the delivery of those drugs during their respective
6 tenures.

7 23. There was one "log-in" and one shared password to place orders for controlled
8 substances from the wholesaler. Anyone with access to the pharmacy's computers could place
9 orders for controlled substances on any of the pharmacy's computers. Respondent Blanks relied
10 on a pharmacy technician to order controlled substances from Respondent United Family
11 Pharmacy's wholesaler because he was unfamiliar with the pharmacy's computer software.

12 24. From August 31, 2017 through April 8, 2019, Respondent United Family Pharmacy
13 lost or could not account for approximately 72,842 mL or 154 pints of promethazine with codeine
14 and 1,995 tablets of alprazolam immediate-release 2 mg.

15 25. From December 18, 2017 through January 3, 2019, Respondent Hasan lost or could
16 not account for approximately 42,570 mL or 90 pints of promethazine with codeine.

17 26. From January 3, 2019 through March 22, 2019, Respondent Blanks lost or could not
18 account for approximately 15,136 mL or 32 pints of promethazine with codeine.

19 27. Respondent's wholesaler conducted an investigation of Respondents' purchases of
20 controlled substances and concluded there were "above market norm purchases of promethazine
21 with codeine," noting that Respondent United Family Pharmacy had purchased sixteen bottles of
22 promethazine with codeine every month since July 2018 (except for October 2018 when there
23 was a supplier shortage). Effective May 6, 2019, Respondent United Family Pharmacy's
24 wholesaler made the decision to make Respondent United Family Pharmacy ineligible to
25 purchase controlled substances.

26 28. Respondents United Family Pharmacy and Hasan failed to comply with the
27 requirements of the Controlled Substance Utilization Review and Evaluation System Reporting
28 (CURES), as set forth in Health and Safety Code section 11165(d), in that they failed to report the

1 dispensing of thirty controlled substance prescriptions to the California Department of Justice
2 from August 31, 2017 through January 7, 2019. Without these records, other healthcare
3 professionals were deprived of access to relevant CURES information from Respondents for
4 these this time period, thus depriving them of essential information with which to make informed
5 decisions regarding the safe prescribing and dispensing of controlled substances. Supplying
6 controlled substances to patients who duplicate medications can lead to patient harm.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Failure to Maintain Current Inventory against All Respondents)**

9 29. Respondents are subject to disciplinary action under Code section 4301, subdivision
10 (o), for violating Code section 4081, subdivision (a) and 4105, subdivision (a) and Title 16,
11 California Code of Regulations, section 1718, in that all Respondents did not maintain a current
12 inventory of promethazine with codeine and alprazolam immediate release 2 mg, as set forth in
13 paragraphs 21 through 27, above, which are incorporated herein by reference.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Failure to Maintain Security of Drugs Against All Respondents)**

16 30. Respondents are subject to disciplinary action under Code section 4301, subdivision
17 (o), for violating California Code of Regulations, title 16, section 1714, subdivisions (b) and (d),
18 in that they failed to maintain the security of promethazine with codeine and alprazolam
19 immediate release 2mg, as set forth in paragraphs 21 through 27, above, which are incorporated
20 herein by reference.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Failure to Report to CURES Against**

23 **Respondents United Family Pharmacy and Hasan)**

24 31. Respondents United Family Pharmacy and Hasan are subject to disciplinary action
25 under section 4301, subdivision (o) for violation of section Health and Safety Code section
26 11165, subdivision (d) for repeatedly failing to report to the California Department of Justice, on
27 a weekly basis, their controlled substance dispensing of 30 prescriptions, as described in
28 paragraphs 21 and 28, above, which are incorporated herein by reference.

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct Against All Respondents)**

3 32. Respondents are subject to disciplinary action under Code section 4301 for
4 unprofessional conduct in that they engaged in the activities described in paragraphs 21 through
5 28, above, which are incorporated herein by reference.

6 **OTHER MATTERS**

7 33. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY
8 55735 issued to United Family Pharmacy, LLC, dba United Family Pharmacy, United Family
9 Pharmacy, LLC, dba United Family Pharmacy shall be prohibited from serving as a manager,
10 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
11 Pharmacy Permit Number PHY 55735 is placed on probation or until Pharmacy Permit Number
12 PHY 55735 is reinstated if it is revoked.

13 34. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY
14 55735 issued to United Family Pharmacy, LLC, dba United Family Pharmacy while Afm N.
15 Hasan has been an owner or manager and had knowledge of or knowingly participated in any
16 conduct for which the licensee was disciplined, Afm N. Hasan shall be prohibited from serving as
17 a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
18 five years if Pharmacy Permit Number PHY 55735 is placed on probation or until Pharmacy
19 Permit Number PHY 55735 is reinstated if it is revoked.

20 35. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY
21 55735 issued to United Family Pharmacy, LLC, dba United Family Pharmacy while John Clay
22 Blanks has been an owner or manager and had knowledge of or knowingly participated in any
23 conduct for which the licensee was disciplined, John Clay Blanks shall be prohibited from serving
24 as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee
25 for five years if Pharmacy Permit Number PHY 55735 is placed on probation or until Pharmacy
26 Permit Number PHY 55735 is reinstated if it is revoked.

27 36. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License No.
28 RPH 36127 issued to Afm N. Hasan, Afm N. Hasan shall be prohibited from serving as a

1 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
2 five years if Pharmacist License Number RPH 36127 is placed on probation or until Pharmacist
3 License Number RPH 36127 is reinstated if it is revoked.

4 37. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License No.
5 RPH 46087 issued to John Clay Blanks, John Clay Blanks shall be prohibited from serving as a
6 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
7 five years if Pharmacist License Number RPH 46087 is placed on probation or until Pharmacist
8 License Number RPH 46087 is reinstated if it is revoked.

9 **PRAYER**

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

12 1. Revoking or suspending Pharmacy Permit Number PHY 55735, issued to United
13 Family Pharmacy, LLC, dba United Family Pharmacy;

14 2. Revoking or suspending Pharmacist License Number RPH 36127, issued to Afm N.
15 Hasan;

16 3. Revoking or suspending Pharmacist License Number RPH 46087, issued to John
17 Clay Blanks;

18 4. Prohibiting United Family Pharmacy, LLC, dba United Family Pharmacy from
19 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a
20 licensee for five years if Pharmacy Permit Number PHY 55735 is placed on probation or until
21 Pharmacy Permit Number PHY 55735 is reinstated if Pharmacy Permit Number PHY 55735
22 issued to United Family Pharmacy, LLC, dba United Family Pharmacy is revoked;

23 5. Prohibiting Afm N. Hasan from serving as a manager, administrator, owner, member,
24 officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number
25 PHY 55735 is placed on probation or until Pharmacy Permit Number PHY 55735 is reinstated if
26 Pharmacy Permit Number PHY 55735 issued to United Family Pharmacy, LLC, dba United
27 Family Pharmacy is revoked;

1 6. Prohibiting John Clay Blanks from serving as a manager, administrator, owner,
2 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
3 Number PHY 55735 is placed on probation or until Pharmacy Permit Number PHY 55735 is
4 reinstated if Pharmacy Permit Number PHY 55735 issued to United Family Pharmacy, LLC, dba
5 United Family Pharmacy is revoked;

6 7. Prohibiting Afm N. Hasan from serving as a manager, administrator, owner, member,
7 officer, director, associate, or partner of a licensee for five years if Pharmacist License Number
8 RPH 36127 is placed on probation or until Pharmacist License Number RPH 36127 is reinstated
9 if Pharmacist License Number RPH 36127 issued to Afm N. Hasan is revoked;

10 8. Prohibiting John Clay Blanks from serving as a manager, administrator, owner,
11 member, officer, director, associate, or partner of a licensee for five years if Pharmacist License
12 Number RPH 46087 is placed on probation or until Pharmacist License Number RPH 46087 is
13 reinstated if Pharmacist License Number RPH 46087 issued to John Clay Blanks is revoked;

14 9. Ordering United Family Pharmacy, LLC, dba United Family Pharmacy, Afm N.
15 Hasan and John Clay Blanks to pay the Board of Pharmacy the reasonable costs of the
16 investigation and enforcement of this case, pursuant to Business and Professions Code section
17 125.3; and,

18 10. Taking such other and further action as deemed necessary and proper.

19
20 DATED: March 30, 2020



ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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