



OHIO STATE BOARD OF PHARMACY

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ORDER OF THE STATE BOARD OF PHARMACY (Dockets No. D-990519-049 and D-990908-019)

In The Matter Of:

JOSEPH JOHN ZIKA, JR., R.Ph.
P. O. Box 456
Bronston, Kentucky 42518
(R.Ph. No. 03-1-10192)

INTRODUCTION

THE MATTER OF JOSEPH JOHN ZIKA, JR. CAME TO HEARING ON OCTOBER 6, 1999, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: ROBERT B. CAVENDISH, R.Ph. (presiding); ANN D. ABELE, R.Ph.; DIANE C. ADELMAN, R.Ph.; SUZANNE R. EASTMAN, R.Ph.; ROBERT P. GIACALONE, R.Ph.; LAWRENCE J. KOST, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; SUZANNE L. NEUBER, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

JOSEPH JOHN ZIKA, JR. WAS NOT PRESENT, NOR WAS HE REPRESENTED BY COUNSEL, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Mike Cluxton, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) None

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1—Copy of nine-page Notice of Opportunity for Hearing dated May 19, 1999, with attached Personal Delivery Record signed and dated July 9, 1999.
- (2) Exhibit 1A—Copy of three-page Summary Suspension Order/Notice of Opportunity For Hearing dated September 8, 1999.

- (3) Exhibit 1B—Hearing Request letter dated August 5, 1999.
- (4) Exhibit 1C—Copy of Hearing Schedule letter dated August 10, 1999, with attached Personal Delivery Record signed and dated August 13, 1999.
- (5) Exhibit 1D—Copy of Pharmacist File Front Sheet of Joseph John Zika, Jr. showing original date of registration as July 20, 1972, and two-page copy of Renewal Application For Pharmacist License, No. 03-1-10192, dated July 25, 1998.
- (6) Exhibit 2—Copy of letter from Rick Cagle dated March 9, 1998.
- (7) Exhibit 2A—Copy of four-page Statement of Debbie Lange dated June 8, 1998.
- (8) Exhibit 3—Copy of Medical Expenses Report of Mary Lou Zika for the period October 27, 1995 through January 30, 1998.
- (9) Exhibit 3A—Seven pages of copies of documents for Mary Zika as follows: Prescription Order No. 6616774-0991 with Prescription Tag dated November 30, 1997; Prescription Order No. 6610244-0991 with Prescription Tag dated March 22, 1997; Prescription Order No. 6610245-0991 with Prescription Tag dated March 22, 1997; Prescription Order No. 66100983-0991 with Prescription Tag dated April 23, 1997; Prescription Order No. 6616725-0991 with Prescription Tag dated November 28, 1997; Handwritten Prescription Order with Prescription Tag No. 6618638-0991 dated January 30, 1998; Handwritten Prescription Order with Prescription Tag No. 6618637-0991 dated January 30, 1998.
- (10) Exhibit 4—Two-page Statement Form of Timothy H. Brown, M.D. dated August 10, 1998.
- (11) Exhibit 5—Four-page Statement of Joseph J. Zika dated February 4, 1999.
- (12) Exhibit 6—Copy of Promissory Note of Joe Zika dated February 9, 1998.
- (13) Exhibit 7—Two pages of copies of documents for Mary Lou Zika as follows: Handwritten Prescription Order with Prescription Tag No. 4401659-0991 dated January 25, 1997; Handwritten Prescription Order with Prescription Tag No. 4403863-0991 dated January 30, 1998.
- (14) Exhibit 8—Medical Expenses Report of Joseph J. Zika, Jr. for the period September 22, 1996, through November 2, 1997.
- (15) Exhibit 9—Statement of Edward B. Herzig, M.D. dated July 28, 1998.
- (16) Exhibit 10—Copy of letter from Edward B. Herzig, M.D. dated February 6, 1998.
- (17) Exhibit 11—Two pages of copies of documents for Joseph Zika as follows: Prescription Order No. 6610979-0991 with Prescription Tag dated April 23, 1997; Handwritten Prescription Order with Prescription Tag No. 6606187-0991 dated September 22, 1996.
- (18) Exhibit 12—Copy of Medical Expenses Report for the period September 27, 1996, through January 30, 1998, for patient DOB August 19, 1965.
- (19) Exhibit 13—Copy of Prescription Order No. 4402013-0991 with Prescription Tag dated July 3, 1997; Prescription Order No. 4401848-0991 with Prescription Tag dated March 13, 1997.
- (20) Exhibit 14—Copy of Statement of William Polanka, M.D. dated August 31, 1998.

- (21) Exhibit 15—Two-page copy of Medical Expenses Report for the period August 16, 1996, through January 30, 1998, for patient DOB December 23, 1923.
- (22) Exhibit 16—Copy of Prescription Order No. 4403047-0991 with Prescription Tag dated October 4, 1997.
- (23) Exhibit 17—Copy of Statement of William Polanka, M.D. dated August 31, 1998.
- (24) Exhibit 18—Two pages of copies of documents for Mary Lou Zika as follows: Handwritten Prescription Order with Prescription Tag No. 6611567-0991 dated May 13, 1997; Handwritten Prescription Order with Prescription Tag No. 4402259-0991 dated May 13, 1997.
- (25) Exhibit 19—Statement of O. Daniel Fox dated July 28, 1998.
- (26) Exhibit 20—Certified copy of "Waiver of Indictment" in the matter of State of Ohio vs. Joseph J. Zika, Jr., Case No. CR99-05-0654, Butler County Common Pleas Court, dated July 9, 1999.
- (27) Exhibit 21—Certified copy of "Waiver of Right of Prosecution By Indictment, and Request for Filing of Information" in the matter of State of Ohio vs. Joseph J. Zika, Jr., Case No. CR99-05-0654, Butler County Common Pleas Court, dated July 9, 1999.
- (28) Exhibit 22—Certified copy of "Jury Waiver" in the matter of State of Ohio vs. Joseph J. Zika, Jr., Case No. CR99-05-0654, Butler County Common Pleas Court, dated July 9, 1999.
- (29) Exhibit 23—Certified copy of two-page "Information For: Theft of Drugs" in the matter of State of Ohio vs. Joseph J. Zika, Jr., Case No. CR99-05-0654, Butler County Common Pleas Court, dated July 9, 1999.
- (30) Exhibit 24—Certified copy of "Entry of Plea of Guilty To An Information" in the matter of State of Ohio vs. Joseph J. Zika, Jr., Case No. CR99-05-0654, Butler County Common Pleas Court, dated July 9, 1999.
- (31) Exhibit 25—Certified copy of two-page "Judgment of Conviction Entry" in the matter of State of Ohio vs. Joseph J. Zika, Jr., Case No. CR99-05-0654, Butler County Common Pleas Court, dated August 17, 1999.

Respondent's Exhibits:

- (1) None

FINDINGS OF FACT

After having heard the testimony, observed the demeanor of the witness, considered the evidence, and weighed the credibility of each, the State Board of Pharmacy finds the following to be fact:

- (1) Records of the Ohio State Board of Pharmacy indicate that Joseph John Zika, Jr. was originally licensed to practice pharmacy in the state of Ohio on July 20, 1972, pursuant to examination. On September 8, 1999, Joseph John Zika, Jr.'s license was summarily suspended in accordance with Section 3719.121(C) of the Ohio Revised Code.
- (2) Joseph John Zika, Jr. did, from on or about September 22, 1996, to January 30, 1998, knowingly make a false statement in a

prescription, order, report, or record required by Chapter 3719. or 4729. of the Ohio Revised Code, to wit: Joseph John Zika, Jr. created prescriptions for dangerous drugs for Mary Zika listing Dr. Timothy Brown as the prescribing physician, and illegally charged his insurance company for the following dangerous drugs:

<u>Date Filled</u>	<u>Rx Number</u>	<u>Drug/Strength</u>	<u>Quantity</u>	<u>Listed</u>
<u>Physician</u>				
09/22/96	6606181	Seldane-D 60mg	60 tabs	Dr. Brown
11/25/96	6604291	Biaxin 500mg	20 tabs	Dr. Brown
12/26/96	6608171	Flumadine 100mg	20 tabs	Dr. Brown
01/16/97	6606700	Allegra 60mg	60 caps	Dr. Brown
01/25/97	6608902	Diflucan 150mg	1 tab	Dr. Brown
03/22/97	6610244	Augmentin 500mg	20 tabs	Dr. Brown
03/22/97	6610245	Diflucan 150mg	1 tab	Dr. Brown
03/27/97	6606700	Allegra 60mg	60 caps	Dr. Brown
04/23/97	6610983	Allegra 60mg	60 caps	Dr. Brown
05/31/97	6610983	Allegra 60mg	60 caps	Dr. Brown
06/27/97	6610245	Diflucan 150mg	1 tab	Dr. Brown
07/03/97	6610983	Allegra 60mg	60 caps	Dr. Brown
08/23/97	6610245	Diflucan 150mg	1 tab	Dr. Brown
08/23/97	6614065	Augmentin 500mg	20 tabs	Dr. Brown
09/02/97	6610983	Allegra 60mg	60 caps	Dr. Brown
10/04/97	6610983	Allegra 60mg	60 caps	Dr. Brown
11/02/97	6610245	Diflucan 150mg	1 tab	Dr. Brown
11/02/97	6610983	Allegra 60mg	60 caps	Dr. Brown
11/28/97	6616725	Diflucan100mg	7 tabs	Dr. Brown
11/30/97	6610983	Allegra 60mg	60 caps	Dr. Brown
11/30/97	6616774	Augmentin 500mg	20 tabs	Dr. Brown
12/11/97	6616725	Diflucan 100mg	7 tabs	Dr. Brown
<u>Date Filled</u>	<u>Rx Number</u>	<u>Drug/Strength</u>	<u>Quantity</u>	<u>Listed</u>

Physician

01/10/98	6610983	Allegra 60mg	60 caps	Dr. Brown
01/30/98	6618638	Augmentin 500mg	20 tabs	Dr. Brown
01/30/98	6618637	Entex	30 tabs	Dr. Brown

Such conduct is in violation of Section 2925.23(A) of the Ohio Revised Code.

- (3) Joseph John Zika, Jr. did, from on or about September 22, 1996, to January 30, 1998, sell at retail, dangerous drugs, to wit: Joseph John Zika, Jr. sold the following dangerous drugs to Mary Zika:

<u>Date Filled</u>	<u>Rx Number</u>	<u>Drug/Strength</u>	<u>Quantity</u>	<u>Listed</u>
<u>Physician</u>				
09/22/96	6606181	Seldane-D 60mg	60 tabs	Dr. Brown
11/25/96	6604291	Biaxin 500mg	20 tabs	Dr. Brown
12/26/96	6608171	Flumadine 100mg	20 tabs	Dr. Brown
01/16/97	6606700	Allegra 60mg	60 caps	Dr. Brown
01/25/97	6608902	Diflucan 150mg	1 tab	Dr. Brown

03/22/97	6610244	Augmentin 500mg	20 tabs	Dr. Brown
03/22/97	6610245	Diflucan 150mg	1 tab	Dr. Brown
03/27/97	6606700	Allegra 60mg	60 caps	Dr. Brown
04/23/97	6610983	Allegra 60mg	60 caps	Dr. Brown
05/31/97	6610983	Allegra 60mg	60 caps	Dr. Brown
06/27/97	6610245	Diflucan 150mg	1 tab	Dr. Brown
07/03/97	6610983	Allegra 60mg	60 caps	Dr. Brown
08/23/97	6610245	Diflucan 150mg	1 tab	Dr. Brown
08/23/97	6614065	Augmentin 500mg	20 tabs	Dr. Brown
09/02/97	6610983	Allegra 60mg	60 caps	Dr. Brown
10/04/97	6610983	Allegra 60mg	60 caps	Dr. Brown
11/02/97	6610245	Diflucan 150mg	1 tab	Dr. Brown
11/02/97	6610983	Allegra 60mg	60 caps	Dr. Brown
11/28/97	6616725	Diflucan100mg	7 tabs	Dr. Brown
11/30/97	6610983	Allegra 60mg	60 caps	Dr. Brown
11/30/97	6616774	Augmentin 500mg	20 tabs	Dr. Brown
12/11/97	6616725	Diflucan 100mg	7 tabs	Dr. Brown
01/10/98	6610983	Allegra 60mg	60 caps	Dr. Brown
01/30/98	6618638	Augmentin 500mg	20 tabs	Dr. Brown
01/30/98	6618637	Entex	30 tabs	Dr. Brown

Such conduct is in violation of Section 4729.51(C) of the Ohio Revised Code.

- (4) Joseph John Zika, Jr. did, from January 25, 1997, to January 30, 1998, intentionally make, utter, or sell, or knowingly possess a false or forged prescription, to wit: John Joseph Zika, Jr. created prescription number 4401659 dated January 25, 1997, and prescription number 4401954 dated March 22, 1997, for Robitussin A-C Syrup, a Schedule V controlled substance. He later created prescription number 4403863 dated January 30, 1998, for Tylenol with Codeine #3, a Schedule III controlled substance listing Dr. Timothy Brown as the prescribing physician for Mary Zika. Such conduct is in violation of Section 2925.23(B) of the Ohio Revised Code.
- (5) Joseph John Zika, Jr. did, on or about January 25, 1997, and January 30, 1998, knowingly sell or offer to sell a controlled substance, to wit: Joseph John Zika, Jr. sold the following controlled substances to Mary Zika:

<u>Date Filled</u>	<u>Rx Number</u>	<u>Drug/Strength</u>	<u>Quantity</u>	<u>Listed Physician</u>
01/25/97	4401659	Robitussin A-C Syrup	180ml	Dr. Brown
03/22/97	4401954	Robitussin A-C Syrup	120ml	Dr. Brown
01/30/98	4403863	Tylenol w/Codeine #3	20 tabs	Dr. Brown

Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.

- (6) Joseph John Zika, Jr. did, from September 22, 1996, to November 2, 1997, knowingly make a false statement in a prescription, order,

report, or record required by Chapter 3719. or 4729. of the Ohio Revised Code, to wit: Joseph John Zika, Jr. created the following prescriptions for dangerous drugs for Joseph Zika listing Dr. Edward B. Herzig as the prescribing physician:

<u>Date Filled</u>	<u>Rx Number</u>	<u>Drug/Strength</u>	<u>Quantity</u>	<u>Listed</u>
<u>Physician</u>				
09/22/96	6606187	Beconase AQ 0.042%25 spr		Dr. Herzig
04/23/97	6610979	Beconase AQ 0.042%25 spr		Dr. Herzig
06/01/97	6610979	Beconase AQ 0.042%25 spr		Dr. Herzig
08/07/97	6610979	Beconase AQ 0.042%25 spr		Dr. Herzig
11/02/97	6610979	Beconase AQ 0.042%25 spr		Dr. Herzig

Such conduct is in violation of Section 2925.23(A) of the Ohio Revised Code.

- (7) Joseph John Zika, Jr. did, from November 6, 1996, to October 4, 1997, intentionally make, utter, or sell, or knowingly possess a false or forged prescription, to wit: Joseph John Zika, Jr. created the following prescriptions for Valium 10mg, a Schedule IV controlled substance, for Tisha L. Appleby, listing Dr. William Polanka as the prescribing physician:

<u>Date Filled</u>	<u>Rx Number</u>	<u>Drug/Strength</u>	<u>Quantity</u>	<u>Listed</u>
<u>Physician</u>				
11/06/96	4402712	Valium 10mg	120 tabs	Dr. Polanka
07/03/97	4402013	Valium 10mg	120 tabs	Dr. Polanka
09/02/97	4402712	Valium 10mg	120 tabs	Dr. Polanka
10/04/97	4402712	Valium 10mg	120 tabs	Dr. Polanka

Such conduct is in violation of Section 2925.23(B) of the Ohio Revised Code.

- (8) Joseph John Zika, Jr. did, from November 6, 1996, to October 4, 1997, knowingly sell or offer to sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount, when the conduct was not in accordance with Chapters 3719. and 4729. of the Ohio Revised Code, to wit: Joseph John Zika, Jr. sold 480 units of Valium 10mg, a Schedule IV controlled substance, to Tisha L. Appleby. Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.
- (9) Joseph John Zika, Jr. did, on or about November 6, 1996, and again on October 4, 1997, intentionally make, utter, or sell, or knowingly possess a false or forged prescription, to wit: Joseph John Zika, Jr. created prescription number 4401221 dated November 6, 1996, and prescription number 4403047 dated October 4, 1997, for Valium 10mg, a Schedule IV controlled substance, for Mildred Broughton, listing Dr. William Polanka as the prescribing physician.

Such conduct is in violation of Section 2925.23(B) of the Ohio Revised Code.

- (10) Joseph John Zika, Jr. did, on November 6, 1996, and again on October 4, 1997, knowingly sell a controlled substance in an amount equal to or exceeding the bulk amount, but in an amount less than three times that amount, when the conduct was not in accordance with Chapters 3719. and 4729. of the Ohio Revised Code, to wit: Joseph John Zika, Jr. sold 180 tablets of Valium 10mg, a Schedule IV controlled substance under prescription numbers 4403047 and 4401221 in quantities of 90 tablets each to Mildred Broughton. Such conduct is in violation of Section 2925.03 of the Ohio Revised Code.
- (11) Joseph John Zika, Jr. did, from on or about May 13, 1997, to November 2, 1997, knowingly make a false statement in a prescription, order, report, or record required by Chapter 3719. or 4729. of the Ohio Revised Code, to wit: Joseph John Zika, Jr. created prescriptions for Mary Zika listing the prescribing physician as Dr. O. Daniel Fox, for the following dangerous drugs:

<u>Date Filled</u>	<u>Rx Number</u>	<u>Drug/Strength</u>	<u>Quantity</u>	<u>Listed</u>
<u>Physician</u>				
05/13/97	4402259	Vicodin 500/5mg	30 tabs	Dr. Fox
05/13/97	66114567	Skelaxin 400mg	30 tabs	Dr. Fox
05/31/97	4402259	Vicodin 500/5mg	30 tabs	Dr. Fox
09/02/97	4402259	Vicodin 500/5mg	30 tabs	Dr. Fox
11/02/97	4402259	Vicodin 500/5mg	30 tabs	Dr. Fox

Such conduct is in violation of Section 2925.23(A) of the Ohio Revised Code.

- (12) Joseph John Zika, Jr. did, from January 25, 1997, to January 30, 1998, intentionally make, utter, or sell, or knowingly possess a false or forged prescription, to wit: Joseph John Zika, Jr. created the following prescriptions for Mary Zika:

<u>Date Filled</u>	<u>Rx Number</u>	<u>Drug/Strength</u>	<u>Quantity</u>	<u>Listed</u>
<u>Physician</u>				
09/22/96	6606181	Seldane-D 60mg	60 tabs	Dr.
Brown				
11/25/96	6604291	Biaxin 500mg	20 tabs	Dr.
Brown				
12/26/96	6608171	Flumadine 100mg	20 tabs	Dr.
Brown				
01/16/97	6606700	Allegra 60mg	60 caps	Dr.
Brown				
01/25/97	4401659	Robitussin A-C Syrup	180 ml	Dr.
Brown				
01/25/97	6608902	Diflucan 150mg	1 tab	Dr.
Brown				

03/22/97 Brown	6610244	Augmentin 500mg	20 tabs	Dr.
03/22/97 Brown	6610245	Diflucan 150mg	1 tab	Dr.
03/22/97 Brown	4401954	Robitussin A-C Syrup	120 ml	Dr.
03/27/97 Brown	6606700	Allegra 60mg	60 caps	Dr.
04/23/97 Brown	6610983	Allegra 60mg	60 caps	Dr.
05/13/97	4402259	Vicodin 500 5mg	30 tabs	Dr. Fox
05/13/97	6611567	Skelaxin 400mg	30 tabs	Dr. Fox
05/31/97	4402259	Vicodin 500 5mg	30 tabs	Dr. Fox
05/31/97 Brown	6610983	Allegra 60mg	60 caps	Dr.
06/27/97 Brown	6610245	Diflucan 150mg	1 tab	Dr.
07/03/97 Brown	6610983	Allegra 60mg	60 caps	Dr.
08/23/97 Brown	6610245	Diflucan 150mg	1 tab	Dr.
08/23/97 Brown	6614065	Augmentin 500mg	20 tabs	Dr.
09/02/97 Brown	6610983	Allegra 60mg	60 caps	Dr.
09/02/97	4402259	Vicodin 500 5mg	30 tabs	Dr. Fox
10/04/97 Brown	6610983	Allegra 60mg	60 caps	Dr.
11/02/97	4402259	Vicodin 500 5mg	30 tabs	Dr. Fox
11/02/97 Brown	6610245	Diflucan 150mg	1 tab	Dr.
11/02/97 Brown	6610983	Allegra 60mg	60 caps	Dr.
11/28/97 Brown	6616725	Diflucan 100mg	7 tabs	Dr.
11/30/97 Brown	6610983	Allegra 60mg	60 caps	Dr.
11/30/97 Brown	6616774	Augmentin 500mg	20 tabs	Dr.
12/11/97 Brown	6616725	Diflucan 100mg	7 tabs	Dr.
01/10/98 Brown	6610983	Allegra 60mg	60 caps	Dr.
01/30/98 Brown	4403863	Tylenol w/Codeine #3	20 tabs	Dr.
01/30/98 Brown	6618638	Augmentin 500mg	20 tabs	Dr.
01/30/98 Brown	6618637	Entex	30 tabs	Dr.

Such conduct is in violation of Section 2925.23(B) of the Ohio Revised Code.

(13) Joseph John Zika, Jr. did, on or about September 22, 1996, through January 30, 1998, with purpose to deprive the owner of property or services and without the consent of the owner or person authorized to give consent, knowingly obtain or exerted control over either the property or services of another by deception, to wit: Joseph John Zika, Jr. stole the following dangerous drugs and controlled substances valued in excess of \$1,789.38 for himself, his wife, and other family members on numerous occasions:

<u>Date Filled</u>	<u>Rx Number</u>	<u>Drug/Strength</u>	<u>Quantity</u>	<u>Listed</u>
09/22/96	6606181	Seldane-D 60mg	60 tabs	Dr.
Brown				
09/22/96	6606187	Beconase AQ 0.042%25 spr		Dr.
Herzig				
11/06/96	4401221	Valium 10mg	90 tabs	Dr.
Polanka				
11/06/96	4402712	Valium 10mg	120 tabs	Dr.
Polanka				
11/25/96	6604291	Biaxin 500mg	20 tabs	Dr.
Brown				
12/26/96	6608171	Flumadine 100mg	20 tabs	Dr.
Brown				
01/16/97	6606700	Allegra 60mg	60 caps	Dr.
Brown				
01/25/97	4401659	Robitussin A-C Syrup180 ml		Dr.
Brown				
01/25/97	6608902	Diflucan 150mg	1 tab	Dr.
Brown				
03/22/97	6610244	Augmentin 500mg	20 tabs	Dr.
Brown				
03/22/97	6610245	Diflucan 150mg	1 tab	Dr.
Brown				
03/22/97	4401954	Robitussin A-C Syrup120 ml		Dr.
Brown				
03/27/97	6606700	Allegra 60mg	60 caps	Dr.
Brown				
04/23/97	6610983	Allegra 60mg	60 caps	Dr.
Brown				
04/23/97	6610979	Beconase AQ 0.042%25 spr		Dr.
Herzig				
05/13/97	4402259	Vicodin 500 5mg	30 tabs	Dr. Fox
05/13/97	6611567	Skelaxin 400mg	30 tabs	Dr. Fox
05/31/97	4402259	Vicodin 500 5mg	30 tabs	Dr. Fox
05/31/97	6610983	Allegra 60mg	60 caps	Dr.
Brown				
06/01/97	6610979	Beconase AQ 0.042%25 spr		Dr.
Herzig				
06/27/97	6610245	Diflucan 150mg	1 tab	Dr.
Brown				
07/03/97	6610983	Allegra 60mg	60 caps	Dr.
Brown				

07/03/97 Polanka	4402013	Valium 10mg	120 tabs	Dr.
08/07/97 Herzig	6610979	Beconase AQ 0.042%25 spr		Dr.
08/23/97 Brown	6610245	Diflucan 150mg	1 tab	Dr.
08/23/97 Brown	6614065	Augmentin 500mg	20 tabs	Dr.
09/02/97 Polanka	4402712	Valium 10mg	120 tabs	Dr.
09/02/97 Brown	6610983	Allegra 60mg	60 caps	Dr.
09/02/97	4402259	Vicodin 500 5mg	30 tabs	Dr. Fox
10/04/97 Polanka	4403047	Valium 10mg	90 tabs	Dr.
10/04/97 Polanka	4402712	Valium 10mg	120 tabs	Dr.
10/04/97 Brown	6610983	Allegra 60mg	60 caps	Dr.
11/02/97	4402259	Vicodin 500 5mg	30 tabs	Dr. Fox
11/02/97 Herzig	6610979	Beconase AQ 0.042%25 spr		Dr.
11/02/97 Brown	6610245	Diflucan 150mg	1 tab	Dr.
11/02/97 Brown	6610983	Allegra 60mg	60 caps	Dr.
11/28/97 Brown	6616725	Diflucan100mg	7 tabs	Dr.
11/30/97 Brown	6610983	Allegra 60mg	60 caps	Dr.
11/30/97 Brown	6616774	Augmentin 500mg	20 tabs	Dr.
12/11/97 Brown	6616725	Diflucan 100mg	7 tabs	Dr.
01/10/98 Brown	6610983	Allegra 60mg	60 caps	Dr.
01/30/98 Brown	4403863	Tylenol w/Codeine #320 tabs		Dr.
01/30/98 Brown	6618638	Augmentin 500mg	20 tabs	Dr.
01/30/98 Brown	6618637	Entex	30 tabs	Dr.

Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.

- (14) In accordance with Section 2929.14 of the Ohio Revised Code, the Butler County Prosecuting Attorney's Office, submitted to this Board a Certified Judgment Entry which indicated that on August 13, 1999, Joseph John Zika, Jr. was convicted of Theft of Drugs under Section 2913.02 of the Ohio Revised Code. State Of Ohio vs. Joseph J. Zika, Case No. CR99-05-0654, Butler County Common Pleas Court.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (14) of the Findings of Fact constitutes being guilty of a felony as provided in Division (A)(1) of Section 4729.16 of the Ohio Revised Code.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (14) of the Findings of Fact constitute being guilty of dishonesty and unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) of Section 4729.16 of the Ohio Revised Code.
- (3) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (12) of the Findings of Fact constitute being guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of provisions of Sections 3715.52 to 3715.72 or Chapter 2925., 3719., or 4729. of the Revised Code as provided in Division (A)(5) of Section 4729.16 of the Ohio Revised Code.

ACTION OF THE BOARD

Pursuant to Section 3719.121 of the Ohio Revised Code, the State Board of Pharmacy hereby removes the Summary Suspension Order issued September 8, 1999.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Joseph John Zika, Jr.:

- (A) On the basis of the Findings of Fact and paragraph (1) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-1-10192, held by Joseph John Zika, Jr. effective as of the date of the mailing of this Order.
- (B) On the basis of the Findings of Fact and paragraph (2) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-1-10192, held by Joseph John Zika, Jr. effective as of the date of the mailing of this Order.
- (C) On the basis of the Findings of Fact and paragraph (3) of the Conclusions of Law set forth above, the State Board of Pharmacy hereby revokes the pharmacist identification card, No. 03-1-10192, held by Joseph John Zika, Jr. effective as of the date of the mailing of this Order.

Division (B) of Section 4729.16 of the Ohio Revised Code provides: "Any individual whose identification card is revoked, suspended, or refused, shall return his identification card and license to the offices of the state board of pharmacy within ten days after receipt of notice of such action." The wall certificate and identification card should be forwarded by certified mail, return receipt requested.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY.

MOTION CARRIED.

SO ORDERED.