

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
(Docket No. D-9713031-019)

In The Matter Of:

ISAAC BLAIR, R.Ph.
6809 Mayfield Road, Apt. 271
Mayfield Heights, Ohio 44124
(R.Ph. No. 03-2-21537)

This Settlement Agreement is entered into by and between Isaac Blair and the Ohio State Board of Pharmacy, a state agency charged with enforcing the Pharmacy Practice Act and Dangerous Drug Distribution Act, Chapter 4729. of the Ohio Revised Code.

Isaac Blair enters into this Agreement being fully informed of his rights afforded under Chapter 119. of the Ohio Revised Code, including the right to representation by counsel.

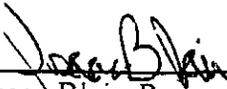
The matter of Isaac Blair was heard on May 4, 1998. The Ohio State Board of Pharmacy issued an Order on June 10, 1998. The Order was appealed to the Cuyahoga County Common Pleas Court as provided in Section 119. of the Ohio Revised Code.

Isaac neither admits nor denies (i) the allegations stated in the Notice of the State Board of Pharmacy and (ii) the Findings of Fact and Conclusions of Law in the Board's Order. However, Isaac Blair agrees that in order to settle the matter between the parties, the Order will be changed to reflect the following:

ACTION OF THE BOARD

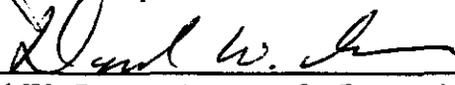
Pursuant to Section 4729.25(B) of the Ohio Revised Code, the State Board of Pharmacy hereby reprimands Isaac Blair.

The parties waive any and all claims or causes of action they may have against the other, and/or any officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement. Isaac Blair waives any rights of further appeal pursuant to Chapter 119. of the Ohio Revised Code.



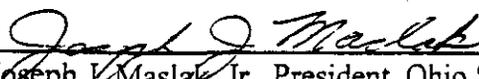
Isaac Blair, Respondent

3-30-99
Date of Signature



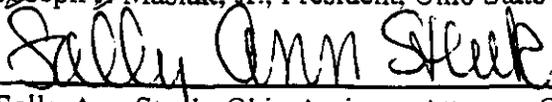
David W. Grauer, Attorney for Respondent

3-31-98
Date of Signature



Joseph J. Maslak, Jr., President, Ohio State Board of Pharmacy

5/3/99
Date of Signature



Sally Ann Steuk, Ohio Assistant Attorney General

4-22-99
Date of Signature



OHIO STATE BOARD OF PHARMACY

77 South High Street, Room 1702; Columbus, OH 43215-6126

-Equal Opportunity Employer and Service Provider-

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ORDER OF THE STATE BOARD OF PHARMACY

(Docket No. D-971031-019)

In The Matter Of:

ISAAC BLAIR, R.Ph.

6809 Mayfield Road, Apt. 271
Mayfield Heights, Ohio 44124
(R.Ph. No. 03-2-21537)

INTRODUCTION

THE MATTER OF ISAAC BLAIR CAME TO HEARING ON MAY 4, 1998, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: AMONTE B. LITTLEJOHN, R.Ph. (presiding); DIANE C. ADELMAN, R.Ph.; ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; PAUL F. LAMPING, R.Ph.; JOSEPH J. MASLAK, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

ISAAC BLAIR WAS REPRESENTED BY DAVID W. GRAUER, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Lynn Mudra, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Isaac Blair, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of six-page Notice of Opportunity for Hearing letter dated October 31, 1997.
- (2) Exhibit 1A--Copy of Hearing Request letter dated November 28, 1997.
- (3) Exhibit 1B--Copy of Hearing Schedule letter dated December 1, 1997.

- (4) Exhibit 1C--Notice of Appearance of Counsel in the Matter of Isaac Blair and Certificate of Service dated January 29, 1998.
- (5) Exhibit 1D--Request to Consolidate in the Matters of Joann P. Waltz Golden and Isaac Blair and Certificate of Service dated January 29, 1998.
- (6) Exhibit 1E--Copy of Pharmacist File Front Sheet of Isaac Blair showing original date of registration as February 26, 1996; and copy of Renewal Application for Pharmacist License, No. 03-2-21537, for a license to practice pharmacy in Ohio from September 15, 1997, to September 15, 1998, of Isaac Blair dated August 5, 1997.
- (7) Exhibit 1F--Copy of Hearing Schedule letter dated February 3, 1998.
- (8) Exhibit 1G--Copy of Hearing Schedule letter dated February 10, 1998.
- (9) Exhibit 2--Copy of RAP-St. Clair Ave. Customer History Report of Mary Adams dated from January 1, 1996, to June 25, 1997.
- (10) Exhibit 2(1)--Prescription number 0315638960.
- (11) Exhibit 2(2)--Prescription number 0315642614.
- (12) Exhibit 2(3)--Prescription number 0315644028.
- (13) Exhibit 3--Copy of RAP-St. Clair Ave. Customer History Report of Sabrina Adams dated from January 1, 1996, to June 25, 1997.
- (14) Exhibit 3(1)--Prescription number 0315638331.
- (15) Exhibit 4--Copy of RAP-St. Clair Ave. Customer History Report of Deborah Bishop dated from January 1, 1996, to June 25, 1997.
- (16) Exhibit 4(1)--Prescription number 0315642347.
- (17) Exhibit 5--RAP-St. Clair Ave. Customer History Report of Debbie Breeden dated from January 1, 1996, to June 25, 1997.
- (18) Exhibit 5(1)--Prescription number 26844.
- (19) Exhibit 6--RAP-St. Clair Ave. Customer History Report of Willieann Johnson dated from January 1, 1996, to June 25, 1997.
- (20) Exhibit 6(1)--Prescription number 35202.
- (21) Exhibit 7--Copy of three-page RAP-St. Clair Ave. Customer History Report of Frances M. Melton dated from January 1, 1996, to June 25, 1997.
- (22) Exhibit 7(1)--Prescription number 0315637933.
- (23) Exhibit 7(2)--Prescription number 0315641997.
- (24) Exhibit 7(3)--Prescription number 0315643247.
- (25) Exhibit 7(4)--Prescription number 0315644019.
- (26) Exhibit 8--Copy of RAP-St. Clair Ave. Customer History Report of Linda Miller dated from January 1, 1996, to June 25, 1997.
- (27) Exhibit 8(1)--Prescription number 0315648624.
- (28) Exhibit 9--RAP-St. Clair Ave. Customer History Report of Linda Nashe dated from January 1, 1996, to June 25, 1997; and RAP-St. Clair Avenue Customer History Report of Linda Nash dated from January 1, 1996, to June 25, 1997.
- (29) Exhibit 9(1)--Prescription number 0315643971.
- (30) Exhibit 10--Copy of RAP-St. Clair Ave. Customer History Report of Lori A. Mercurio dated from January 1, 1996, to June 25, 1997.
- (31) Exhibit 10(1)--Prescription number 30039.
- (32) Exhibit 11--Copy of RAP-St. Clair Ave. Customer History Report of Diane Robinson dated from January 1, 1996, to June 25, 1997.
- (33) Exhibit 11(1)--Prescription number 0315645135.

- (34) Exhibit 12--Copy of RAP-St. Clair Ave. Customer History Report of Yolanda C. Tucker dated from January 1, 1996, to June 25, 1997; and copy of RAP-St. Clair Ave. Customer History Report of Yalanda Tucker dated from January 1, 1996, to June 25, 1997.
- (35) Exhibit 12(1)--Prescription number 0315639363.
- (36) Exhibit 12(2)--Prescription number 0315640060.
- (37) Exhibit 12(3)--Prescription number 0315641240.
- (38) Exhibit 13--Copy of package insert for Adipex-P (phentermine HCl 37.5mg) manufactured by Gate Pharmaceuticals, Rev. C 3/94.
- (39) Exhibit 14--Copies of fourteen pages of pertinent articles of the Ohio State Board of Pharmacy News dated February, 1987; February, 1992; November 1995; and August, 1996, regarding controlled substances used for weight reduction; and copy of Ohio State Board of Pharmacy Compliance Bulletin 96-003 dated June 17, 1996.

Respondent's Exhibits:

- (1) Exhibit E--Letter from Vanessa L. Scott dated February 25, 1998.
- (2) Exhibit F--Copy of letter from John A. Petracci, not dated.
- (3) Exhibit G--Copy of letter from James E. Turner dated April 2, 1998.
- (4) Exhibit H--Copy of letter from James J. Graham dated February 27, 1998.
- (5) Exhibit I--Copy of letter from John F. Mingo dated April 5, 1998.
- (6) Exhibit J--Copy of letter from Yolanda Brooks, not dated.
- (7) Exhibit K--Copy of letter from Lauren Beach dated January 30, 1997.
- (8) Exhibit L--Two-page copy of East High School 1998 National Honor Society program showing Isaac Blair as Speaker dated Thursday ,April 23, 1998.

FINDINGS OF FACT

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

- (1) Records of the Board of Pharmacy indicate that Isaac Blair was originally licensed in the state of Ohio on February 26, 1996, pursuant to examination, and is currently licensed to practice pharmacy in the state of Ohio. Further, Isaac Blair is employed as a pharmacist at Rite Aid Discount Pharmacy #3156, 15105 St. Clair Avenue, Cleveland, Ohio.
- (2) Isaac Blair did, on or about the following dates, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: on each occasion Isaac Blair sold 28 units of Adipex-P 37.5mg for diet to patient #1 pursuant to the following prescriptions which were not issued for a legitimate medical purpose pursuant to Rule 4731-11-04 of the Ohio Administrative Code, and thereby failing to fulfill his corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code:

<u>Rx Number</u>	<u>Written</u>	<u>Filled</u>
38960	12/04/96	12/01/96
42614	01/27/97	01/20/97

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

- (3) Isaac Blair did, on or about November 20, 1996, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Isaac Blair sold 28 units of Adipex-P 37.5mg for diet to patient #2 pursuant to prescription number 38331, written on November 21, 1996, not issued for a legitimate medical purpose pursuant to Rule 4731-11-04 of the Ohio Administrative Code, and thereby failing to fulfill his corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code.
- (4) Isaac Blair did, on or about June 4, 1996, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Isaac Blair sold 28 units of Redux 15mg for diet to patient #4 pursuant to prescription number 26844, written on an unknown date, not issued for a legitimate medical purpose pursuant to Rule 4731-11-04 of the Ohio Administrative Code, and thereby failing to fulfill his corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code.
- (5) Isaac Blair did, on or about the following dates, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: on each occasion Isaac Blair sold 28 units of Adipex-P 37.5mg for diet to patient #6 pursuant to the following prescriptions which were not issued for a legitimate medical purpose pursuant to Rule 4731-11-04 of the Ohio Administrative Code, and thereby failing to fulfill his corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code:

<u>Rx Number</u>	<u>Written</u>	<u>Filled</u>
37933	04/18/96	11/15/96
41997	01/10/97	01/10/97
43247	01/24/97	01/28/97
44019	02/07/97	02/07/97

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

- (6) Isaac Blair did, on or about April 10, 1997, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Isaac Blair sold 14 units of Adipex-P 37.5mg for diet to patient #7 pursuant to prescription number 48624 which was not issued for a legitimate medical purpose pursuant to Rule 4731-11-04 of the Ohio Administrative Code, and thereby failing to fulfill his corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code.
- (7) Isaac Blair did, on or about July 25, 1996, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Isaac Blair sold 56 units of Didrex 50mg for diet to patient #9 pursuant to prescription number 30039 which was not issued for a legitimate medical purpose pursuant to Rule 4731-11-04 of the Ohio Administrative Code, and thereby failing to fulfill his corresponding responsibility

pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code.

- (8) Isaac Blair did, on or about December 14, 1996, knowingly sell a controlled substance in an amount less than bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Isaac Blair sold 28 units of Adipex-P 37.5mg for diet to patient #11 pursuant to prescription number 40060 which was not issued for a legitimate medical purpose pursuant to Rule 4731-11-04 of the Ohio Administrative Code, and thereby failing to fulfill his corresponding responsibility pursuant to Section 1306.04 of the Code of Federal Regulations and Rule 4729-5-30 of the Ohio Administrative Code. Such conduct is in violation of Section 2925.03(A) of the Ohio Revised Code.

CONCLUSIONS OF LAW

- (1) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraphs (2) through (8) of the Findings of Fact constitute being guilty of unprofessional conduct in the practice of pharmacy as provided in Division (A)(2) 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 (8) 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 Chapter 2925. 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 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Isaac Blair:

- (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 places the pharmacist identification card, No. 03-2-21537, of Isaac Blair on probation for two years, effective as of the date of the mailing of this Order. The terms of probation are as follows:
 - (1) Isaac Blair must not violate the drug laws of the state of Ohio, any other state, or the federal government.
 - (2) Isaac Blair must abide by the rules of the Ohio State Board of Pharmacy.
 - (3) Isaac Blair must comply with the terms of this Order.

The Board may at any time revoke probation for cause, modify the conditions of probation, and reduce or extend the period of probation. At any time during this period of probation, the Board may revoke probation for a violation occurring during the probation period.

- (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 imposes a monetary penalty of one thousand dollars (\$1,000.00) due and owing within thirty days of the issuance of this Order. The monetary penalty should be made payable to the "Treasurer, State of

Ohio" and mailed with the enclosed form to the State Board of Pharmacy, 77 South High Street, 17th Floor, Columbus, Ohio 43266-0320.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-4/Nay-3).

MOTION CARRIED.

SO ORDERED.