

## OHIO STATE BOARD OF PHARMACY

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

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## <u>SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY</u>

(Docket No. D-930916-018)

In The Matter Of:

## PHILLIP A. ROTMAN, R.Ph.

Box D Springboro, Ohio 45066 (R.Ph. No. 03-2-06801)

This Settlement Agreement is entered into by and between Phillip A. Rotman 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.

Phillip A. Rotman 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 and the right to a formal adjudication hearing on the issues contained herein.

Phillip A. Rotman is knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that have been filed by the Board against Phillip A. Rotman and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions against Phillip A. Rotman's license to practice pharmacy in the state of Ohio, this Agreement is entered into on the basis of the following stipulations, admissions, and understandings:

- (A) The Ohio State Board of Pharmacy is empowered by Section 4729.16 of the Ohio Revised Code to suspend, revoke, place on probation, refuse to grant or renew an identification card, or impose a monetary penalty on the license holder for violation of any of the enumerated grounds.
- (B) Phillip A. Rotman was notified, on or about September 16, 1993, pursuant to Chapter 119. of the Ohio Revised Code, by letter of the Summary Suspension Order pursuant to Section 3719.121(B) of the Ohio Revised Code of his registration and license to practice pharmacy, his right to a hearing, his rights in such hearing, and his right to submit his contentions in writing. Phillip A. Rotman requested a hearing, and a hearing was scheduled in accordance with Chapter 119. of the Ohio Revised Code. Phillip A. Rotman was further notified on or about June 10, 1994, of amendments to the September 16, 1993, notice, as well as additional allegations which would be considered at the administrative hearing.
- (C) This Settlement Agreement is not an admission nor denial of the charges as set forth in the Summary Suspension Order dated September 16, 1993, and the

Amendment Notice dated June 10, 1994, as reiterated in paragraphs (D)(1) through (D)(10) below.

- (D) Phillip A. Rotman was duly notified, pursuant to Section 3719.121 and Chapter 119. of the Ohio Revised, of the following allegations:
  - (1) Phillip A. Rotman did, from July 4, 1991, to October 12, 1992, with the purpose to deprive the owner, Kroger Sav-On Pharmacy #941, knowingly obtain or exert control over dangerous drugs beyond the scope of the consent of the owner, to wit: Phillip A. Rotman stole 3,892 unit doses of Didrex 50mg, a schedule III controlled substance, and 260 unit doses of Winstrol 2mg, a schedule III controlled substance. When confronted by a Board of Pharmacy agent, Phillip A. Rotman admitted to stealing the drugs. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
  - (2) Phillip A. Rotman did, from July 4, 1991, through June 14, 1992, knowingly sell a controlled substance in an amount greater than three times the bulk amount when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Phillip A. Rotman admittedly sold 900 unit doses of Didrex 50mg, a schedule III controlled substance, without a prescription and not for a legitimate medical purpose. When confronted by a Board of Pharmacy agent, Phillip A. Rotman admitted to selling these drugs to David Collins in exchange for a baseball autographed by members of the St. Louis Cardinals professional baseball team. Such conduct is in violation of Section 2925.03(A)(7) of the Ohio Revised Code.
  - (3) Phillip A. Rotman did, from February 16, 1992, through June 12, 1992, create false or forged prescriptions for dangerous drugs, to wit: Phillip A. Rotman created the following prescriptions, which he dispensed to his wife, when such had not been authorized by a practitioner:

<u>Drug</u>	<b>Quantity</b>	<u>Date</u>
Naprosyn 500mg	60	06-12-92
Premarin 1.25mg	100	06-12-92
Synthroid 0.025mg	100	06-12-92
Zantac 150mg	60	06-02-92
Tessalon Perles 100mg	g 30	06-02-92
Augmentin 500mg	42	06-02-92
Vistaril 50mg	50	02-16-92
	Naprosyn 500mg Premarin 1.25mg Synthroid 0.025mg Zantac 150mg Tessalon Perles 100mg Augmentin 500mg	Naprosyn 500mg 60 Premarin 1.25mg 100 Synthroid 0.025mg 100 Zantac 150mg 60 Tessalon Perles 100mg 30 Augmentin 500mg 42

When confronted by a Board of Pharmacy agent, Phillip A. Rotman admitted to this activity. Such conduct is in violation of Section 4729.61(C) of the Ohio Revised Code.

(4) Phillip A. Rotman did, from April 26, 1991, through May 26, 1992, create false or forged prescriptions for dangerous drugs, to wit: Phillip A. Rotman created the following prescriptions, which he dispensed to his daughter, when such had not been authorized by a practitioner:

Rx No.	<u>Drug</u>	<b>Quantity</b>	<u>Date</u>
60161832	Hismanal 10mg	30	12-22-91
60161832(R)	Hismanal 10mg	30	04-15-92
60161833	Naprosyn 500mg	100	12-22-91

60176	6470	Trinalin	60	05-25-92
60176	6614	<b>Bactroban Ointment</b>	15	05-26-92
60176	6466	Furosemide 20mg	30	05-25-92
60176	6465	Synthroid 0.05mg	100	05-25-92
60176	6464	Methylprednisolone	4mg100	05-25-92
60162	2066	Lotrisone Cream	45	12-24-91
60150	0001	Hismanal 10mg	30	08-11-91
60149	9358	Lachydrin Lotion	150	08-02-91
6014	1333	Zovirax 200mg	100	04-26-91
6014	1334	Zovirax Ointment	15	04-26-91

When confronted by a Board of Pharmacy agent, Phillip A. Rotman admitted to this activity. Such conduct is in violation of Sections 4729.61(C) and 2925.23(B) of the Ohio Revised Code.

(5) Phillip A. Rotman did, from April 21, 1991, through September 16, 1992, create false or forged prescriptions for dangerous drugs, to wit: Phillip A. Rotman created the following prescriptions, which he dispensed to himself, when such had not been authorized by a practitioner:

<u>Drug</u>	<b>Quantity</b>	<u>Date</u>
PCE Tablets 500mg	60	06/04/92
Tessalon Perles 100mg	50	06/04/92
Cephalexin 500mg	40	05/22/92
Peridex Oral Rinse	480	02/07/92
Macrodantin 100mg	40	12/07/91
Duricef 500mg	20	04/24/91
	PCE Tablets 500mg Tessalon Perles 100mg Cephalexin 500mg Peridex Oral Rinse Macrodantin 100mg	PCE Tablets 500mg 60 Tessalon Perles 100mg 50 Cephalexin 500mg 40 Peridex Oral Rinse 480 Macrodantin 100mg 40

When confronted by a Board of Pharmacy agent, Phillip A. Rotman admitted to this activity. Such conduct is in violation of Sections 4729.61(C) and 2925.23(B) of the Ohio Revised Code.

- (6) Phillip A. Rotman did, from June 12, 1992, to October 13, 1992, with the purpose to deprive the owner, Kroger Sav-On Pharmacy #933, knowingly obtain or exert control over dangerous drugs beyond the scope of the consent of the owner, to wit: Phillip A. Rotman stole 900 unit doses of Didrex 50mg, a schedule III controlled substance, and 188 unit doses of Methyltestosterone 10mg sublingual tablets, a schedule III controlled substance. When confronted by a Board of Pharmacy agent, Phillip A. Rotman admitted to stealing the drugs. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (7) Phillip A. Rotman did, on or about August, 1992, knowingly sell a controlled substance in an amount greater than bulk but less than three times bulk when the conduct was not in accordance with Chapters 3719., 4729., and 4731. of the Ohio Revised Code, to wit: Phillip A. Rotman admittedly sold 100 unit doses of Didrex 50mg, a schedule III controlled substance, without a prescription and not for a legitimate medical purpose. When confronted by a Board of Pharmacy agent, Phillip A. Rotman admitted to selling these drugs to Herman Winningham in exchange for a baseball autographed by members of the Boston Red Sox professional baseball team and a Boston Red Sox jersey autographed by Roger Clemens. Such conduct is in violation of Section 2925.03(A)(5) of the Ohio Revised Code.

- (8) Phillip A. Rotman did, on or about October 7, 1993, while not being a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, compound, dispense, or sell drugs, dangerous drugs, or poisons, to wit: Phillip A. Rotman filled written order number 160431 for 20ml of Meperidine Injection 75mg/ml while employed as a pharmacist at Kettering Medical Center, and after having received notification that his license to practice pharmacy had been summarily suspended by the State Board of Pharmacy. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (9) Phillip A. Rotman did, on or about October 8, 1993, while not being a registered pharmacist or a pharmacy intern under the personal supervision of a registered pharmacist, compound, dispense, or sell drugs, dangerous drugs, or poisons, to wit: Phillip A. Rotman filled prescription number 513772 for 20 unit doses of Propoxyphene N-100 and prescription number 513788 for 90ml of Nucofed Expectorant, while employed as a pharmacist at Revco Discount Drug Center #467, and after having been personally advised by an agent of the Ohio State Board of Pharmacy on October 7, 1993, that his license to practice pharmacy had been summarily suspended. Such conduct is in violation of Section 4729.28 of the Ohio Revised Code.
- (10) (A) The Board of Pharmacy did, on or about May 28, 1974, find and order the following relating to Bennett Drug and Phillip A. Rotman as its owner:
- (1) Phillip A. Rotman sold misbranded drugs which were not sold for use by or on the order of a licensed veterinarian in violation of Sections 3715.52(B) and 3715.64(A)(11)(a) of the Ohio Revised Code; and
- (2) Phillip A. Rotman was fined the net sum of \$100.00 for said violation.
- (B) The Board of Pharmacy did, on or about January 31, 1979, issue to Bennett Drug, in care of Phillip A. Rotman as the owner and Responsible Pharmacist, a written warning letter ordering him to cease and desist from violating Ohio laws relating to the practice of pharmacy. The warning was issued for having dispensed a drug which was not prescribed and for having improperly labeled the medication in violation of Section 3715.52 of the Ohio Revised Code.
- (C) Phillip A. Rotman was, on or about December 22, 1980, convicted in the Common Pleas Court of Franklin County, Ohio, of Falsification in violation of Section 2921.11 of the Ohio Revised Code, a misdemeanor of the first degree, for having committed offenses relating to welfare fraud against the state of Ohio.
- (D) Phillip A. Rotman did, on or about May 3, 1984, pursuant to a complaint filed in the United States District Court for the Southern District of Ohio by the United States of America, enter into a consent agreement wherein Phillip A. Rotman was enjoined from selling misbranded drugs and/or selling drugs without valid prescriptions in violation of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sections 301-392.

The continuing course of conduct alleged herein, as well as the individual acts, if proven, constitutes being guilty of gross immorality and/or guilty of dishonesty or unprofessional conduct in the practice of pharmacy within the meaning of Section 4729.16 of the Ohio Revised Code.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, Phillip A. Rotman knowingly and voluntarily agrees with the State Board of Pharmacy to the following:

Phillip A. Rotman's identification card to practice pharmacy in the state of Ohio is hereby revoked. Division (B) of Section 4729.16 of the Revised Code provides in pertinent part that: "Any individual whose identification card is revoked, suspended, or refused, shall return his identification card and certificate of registration to the offices of the state board of pharmacy within ten days after receipt of notice of such action." The certificate and identification card were personally surrendered to the Board, and will be retained by the Board pursuant to this Agreement.

If, in the judgment of the Board, Phillip A. Rotman appears to have violated or breached any terms or conditions of this Agreement, the Ohio State Board of Pharmacy reserves the right to, at any time, institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violation of the laws of Ohio occurring before the effective date of this Agreement.

Phillip A. Rotman acknowledges that he has had an opportunity to ask questions concerning the terms of this agreement and that all questions asked have been answered in a satisfactory manner. Any action initiated by the Board based on alleged violation of this Agreement shall comply with the Administrative Procedure Act, Chapter 119. of the Ohio Revised Code.

Phillip A. Rotman waives any and all claims or causes of action he may have against the State of Ohio or the Board, and members, officers, employees, and/or agents of either, arising out of matters which are the subject of this Agreement.

In the event the Board, in its discretion, does not approve this Agreement, this settlement offer is withdrawn and shall be of no evidentiary value and shall not be relied upon or introduced in any disciplinary action or appeal by either party. Phillip A. Rotman agrees that should the Board reject this Agreement and if this case proceeds to hearing, he will assert no claim that the Board was prejudiced by its review and discussion of this Agreement or of any information relating thereto.

This Settlement Agreement shall be considered a public record, as that term is used in Section 149.43 of the Ohio Revised Code, and shall become effective upon the last date of signature below.

/s/ Phillip A Rotman	/d/ 10 /26 /94	
Phillip A. Rotman, Respondent	Date of Signature	
/s/ Anthony Delligatti Jr	/d/ 10 /26 /94	
Anthony Delligatti, Jr.; Delligatti, Hollenbaugh & Briscoe Attorney for Respondent	Date of Signature	
/s/ Ruth Plant.	/d/ 10 /28 /94	
Ruth Plant, President, Ohio State Board of Pharmacy	Date of Signature	
/s/ Anne Strait	/d/ 10 /28 /94	
Anne B. Strait, Ohio Assistant Attorney General	Date of Signature	