

SETTLEMENT AGREEMENT WITH THE STATE BOARD OF PHARMACY
VOLUNTARY SURRENDER WITH DISCIPLINARY ACTION PENDING
(Docket No. D-020920-017)

In The Matter Of:

ARCH JOSEPH WEBER, R.Ph.
8700 Ashford Lake N.W.
Pickerington, Ohio 43147
(R.Ph. No. (03-3-14610)

This Settlement Agreement is entered into by and between Arch Joseph Weber 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.

Arch Joseph Weber 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.

Arch Joseph Weber is knowingly and voluntarily acknowledging that, in order to settle the disciplinary charges that have been filed by the Board against him and in order to obviate the need to conduct an administrative hearing to consider possible disciplinary sanctions against Arch Joseph Weber'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) Arch Joseph Weber neither admits nor denies the allegations stated in the Notice of Opportunity for Hearing letter dated September 20, 2002, Addendum Notice dated September 23, 2002 and Addendum Notice dated October 21, 2002; however, the Board has duly filed the allegations in its Notice of Opportunity as stated therein and will withhold adjudication pursuant to the terms of this agreement.

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of a formal hearing at this time, Arch Joseph Weber knowingly and voluntarily **SURRENDERS PERMANENTLY TO THE STATE BOARD OF PHARMACY HIS LICENSE AND REGISTRATION TO PRACTICE PHARMACY, WITH DISCIPLINARY ACTION PENDING, IS PRECLUDED FROM MAKING ANY APPLICATION FOR FURTHER REGISTRATION.**

Arch Joseph Weber may not be employed by or work in any facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs.

Arch Joseph Weber 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.

Arch Joseph Weber 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. Arch Joseph Weber waives any rights of appeal pursuant to Chapter 119. of the Ohio Revised Code.

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 date of the Board President's signature below.

SIGNED AND EFFECTIVE NOVEMBER 4, 2002

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-971003-008)

In The Matter Of:

ARCH JOSEPH WEBER, R.Ph.
8700 Ashford Lake NW
Pickerington, Ohio 43147
(R.Ph. No. 03-3-14610)

INTRODUCTION

THE MATTER OF ARCH JOSEPH WEBER CAME TO HEARING ON DECEMBER 10, 1997, 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.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

ARCH JOSEPH WEBER WAS REPRESENTED BY WILLIAM J. MOONEY, AND THE STATE OF OHIO WAS REPRESENTED BY SALLY ANN STEUK, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) None

Respondent's Witnesses:

- (1) George Perdue, R.Ph., Pharmacists Rehabilitation Organization, Inc.
(2) Bruce Franken, R.Ph., Pharmacists Rehabilitation Organization, Inc.
(3) Steve Harris, R.Ph. Pharmacists Rehabilitation Organization, Inc.
(4) Arch Joseph Weber, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Copy of six-page Order of the State Board of Pharmacy, Docket No. D-960123-035, in the matter of Arch Joseph Weber, R.Ph. dated July 1, 1996.
(2) Exhibit 1A--Hearing Request letter dated September 28, 1997.
(3) Exhibit 1B--Copy of two-page Hearing Schedule letter dated October 3, 1997.
(4) Exhibit 1C--Letter from William J. Mooney dated October 24, 1997.
(5) Exhibit 1D--Copy of Hearing Schedule letter dated October 28, 1997.

Respondent's Exhibits:

- (1) Exhibit A--Bound copies separated as follows: Tab 1 (RMS Contract) - Shepherd Hill Letters Verifying Treatment: Letter from Chris Lindskog dated October 27, 1997; letter from Christine Lindskog dated November 24, 1997; two letters from Mary Spain dated June 5, 1996, and July 2, 1996; and four urine drug screen reports of Arch Weber dated from June 8, 1996, through June 27, 1996. Tab 2 (PRO Contract) - Two-page Shepherd Hill Hospital Recovery Monitoring Services Agreement of Arch Joseph Weber dated April 10, 1996; Intervenor Information form; two-page Pharmacists Rehabilitation Organization, Inc. Pharmacist's Recovery Contract of Arch Weber dated March 10, 1996. Tab 3 (Drug Screens) - 105 pages consisting of sixty-four urine drug screen reports of Arch Weber dated from March 28, 1996; letter from Chris Lindskog dated July 3, 1997; three letters from Mary Spain dated October 7, 1996, January 10, 1997, and April 10, 1997; and one AA Attendance sheet of Arch Weber dated October 13 through November 11, 1997. Tab 4 (AA Attendance) - twenty-nine pages of meeting attendance verification sheets of Arch Weber dated from February 27, 1996, through December 8, 1997. Tab 5 (Probation Compliance) - Disbursement Release in the Court of Common Pleas of Fairfield County, Ohio, Case No. 96CR0203, of Arch Joseph Weber, date illegible; Fairfield County Common Pleas Court, Receipt No. 57734, for money received of Arch Weber dated July 7, 1997; and letter from Bruce A. Oatney dated November 6, 1997. Tab 6 (Continuing Education) - eleven pages consisting of twenty-three continuing education certificates of Arch Weber dated from November 1, 1996, through October 7, 1997.

FINDING 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) Arch Joseph Weber is in compliance with the Order of the Board, Docket No. D-960123-035, dated July 1, 1996.

ACTION OF THE BOARD

The State Board of Pharmacy hereby approves the reinstatement of the pharmacist identification card of Arch Joseph Weber to practice pharmacy in the state of Ohio and places him on probation for five years from the date his identification card is issued, with the following conditions:

- (A) Arch Joseph Weber must enter into a new contract, after the effective date of this Order, with a treatment provider acceptable to the Board, for a period of not less than five years and submit a copy of the signed contract to the Board office with the renewal application. The contract must provide that:

- (1) random, **observed** urine screens shall be conducted at least once every three months. The urine drug screens must report proper testing for alcohol. The urine drug screens must also report testing for creatinine as the dilutional standard or specific gravity and the results of such testing must be within normal limits;
 - (2) regular attendance, a minimum of three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meeting is required during outpatient treatment and/or during aftercare;
 - (3) the intervener/sponsor shall provide copies of all urine screens to the Ohio Board of Pharmacy in a timely fashion; and
 - (4) the program shall immediately report to the Ohio Board of Pharmacy any violations of the contract and/or lack of cooperation.
- (B) Arch Joseph Weber must submit quarterly progress reports to the Board; due January 10; April 10; July 10; and October 10; of each year of probation, that include:
- (1) the written report and documentation provided by the treatment program pursuant to the contract, and
 - (2) a written description of his progress towards recovery and what he has been doing during the previous three months.
- (C) Other terms of probation are as follows:
- (1) Pursuant to paragraph (D)(1) of Rule 4729-3-01 of the Ohio Administrative Code, the State Board of Pharmacy hereby declares that the pharmacist identification card of Arch Joseph Weber is not in good standing and thereby denies the privilege of being a preceptor and training pharmacy interns.
 - (2) Arch Joseph Weber may not serve as a responsible pharmacist.
 - (3) Arch Joseph Weber may not destroy, assist in, or witness the destruction of controlled substances.
 - (4) Arch Joseph Weber must abide by the contract from the treatment provider and any violation must be reported to the Board immediately.
 - (5) Arch Joseph Weber must not violate the drug laws of the state of Ohio, any other state, or the federal government.
 - (6) Arch Joseph Weber must abide by the rules of the Ohio State Board of Pharmacy.
 - (7) Arch Joseph Weber must comply with the terms of this Order.

Arch Joseph Weber is hereby advised that 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.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY (Aye-6/Nay-0).

MOTION CARRIED.

SO ORDERED.

ORDER EFFECTIVE JANUARY 15, 1998

ORDER OF THE STATE BOARD OF PHARMACY
(Docket No. D-960123-035)

In The Matter Of:

ARCH JOSEPH WEBER, R.Ph.
8700 Ashford Lake NW
Pickerington, Ohio 43147
(R.Ph. No. 03-3-14610)

INTRODUCTION

THE MATTER OF ARCH JOSEPH WEBER CAME TO HEARING ON APRIL 23, 1996, BEFORE THE FOLLOWING MEMBERS OF THE BOARD: PAUL F. LAMPING, R.Ph. (presiding); ROBERT B. CAVENDISH, R.Ph.; JOHN L. HANNA, R.Ph.; AMONTE B. LITTLEJOHN, R.Ph.; WAYNE C. MILLER, R.Ph.; SUZANNE L. NEUBER, R.Ph.; RUTH A. PLANT, R.Ph.; AND NICHOLAS R. REPKE, PUBLIC MEMBER.

ARCH JOSEPH WEBER WAS REPRESENTED BY WILLIAM J. MOONEY, AND THE STATE OF OHIO WAS REPRESENTED BY MARY L. HOLLERN, ASSISTANT ATTORNEY GENERAL.

SUMMARY OF EVIDENCE

(A) Testimony

State's Witnesses:

- (1) Robert Clemens, Sun Oil - Security, formerly with Revco Loss Prevention
- (2) Rebecca Woods, Responsible Pharmacist, Revco #3188, Lancaster, Ohio
- (3) Sgt. Dan Patten, Lancaster Police Department
- (4) William L. Padgett, Ohio State Board of Pharmacy

Respondent's Witnesses:

- (1) Arch Joseph Weber, Respondent

(B) Exhibits

State's Exhibits:

- (1) Exhibit 1--Summary Suspension Order/Notice of Opportunity for Hearing letter dated January 23, 1996.
- (2) Exhibit 1A--Hearing Request letter dated February 15, 1996.
- (3) Exhibit 1B--Hearing Schedule letter dated February 23, 1996.
- (4) Exhibit 1C--Addendum Notice dated February 23, 1996.
- (5) Exhibit 1D--Pharmacist File Front Sheet of Arch Joseph Weber showing original date of registration as April 26, 1982; and Renewal Application for Pharmacist License, No. 03-3-14610, for a license to practice pharmacy in Ohio from September 15, 1995, to September 15, 1996, dated August 3, 1995.

- (6) Exhibit 2A--Thirteen-page transcript of interview of Arch Weber with Bill Padgett, Tim Benedict, Sgt. Dan Patton, and Bob Clemens on January 6, 1996; and attached copy of Lancaster Police Department, Rights under the Miranda Warning, signed by Arch Weber on January 5, 1996, at 10:50 p.m.
- (7) Exhibit 3--Revco Inventory of Tussionex, Hycodan tablets, Hycodan syrup, and Hydro-met syrup taken on Wednesday, January 3, 1996, at 11:00 p.m.
- (8) Exhibit 4--Revco Inventory of Tussionex, Hycodan tablets, Hycodan syrup, and Hydro-met syrup taken on Friday, January 5, 1996, at 9:00 a.m.
- (9) Exhibit 5--Revco Inventory of Tussionex, Hycodan tablets, Hycodan syrup, and Hydro-met syrup taken on Saturday, January 6, 1996, at 9:00 a.m.
- (10) Exhibit 6--Revco Inventory of Tussionex, Hycodan tablets, Hycodan syrup, and Hydro-met syrup taken on Saturday, January 6, 1996, at 10:00 p.m.
- (11) Exhibit 7--Two full, unmarked, amber, 2oz. bottles of Tussionex syrup in a Revco bag.
- (12) Exhibit 8--Sixty-three pieces of Nicorette gum.
- (13) Exhibit 8A--Empty 900ml Tussionex stock bottle.
- (14) Exhibit 9--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #1388 (*sic*) for Tussionex syrup dated February 16, 1996.
- (15) Exhibit 10--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #3188 for Vicodin ES dated February 16, 1996.
- (16) Exhibit 11--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #3188 for Lortab 7.5/500 dated February 16, 1996.
- (17) Exhibit 12--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #3188 for Lorcet Plus dated February 16, 1996.
- (18) Exhibit 13--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #3188 for Lorcet 10/650 dated February 16, 1996.
- (19) Exhibit 14--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #3188 for Hydrocodone 7.5/750 dated February 16, 1996.
- (20) Exhibit 15--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #3188 for Hydrocodone 5/500 dated February 16, 1996.
- (21) Exhibit 16--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #3188 for Hydrocodone 10/650 dated February 16, 1996.
- (22) Exhibit 17--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #3188 for Hydrocodone 7.5/650 dated February 16, 1996.
- (23) Exhibit 18--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #3188 for Hycodan dated February 16, 1996.
- (24) Exhibit 19--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #3188 for Hycodan Syrup dated February 16, 1996.
- (25) Exhibit 20--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #3188 for Hydromet dated February 16, 1996.
- (26) Exhibit 21--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #3188 for Hydrocodone 7.5/500 dated February 16, 1996.
- (27) Exhibit 22--Ohio State Board of Pharmacy Drug Audit Accountability Sheet of Revco #3188 for Vicodin tablets dated February 16, 1996.

Respondent's Exhibits:

- (1) Exhibit A--Copy of Pharmacists Rehabilitation Organization, Inc., Pharmacist's Recovery Contract of Arch Weber dated March 10, 1996; copy of four pages of AA Meeting Attendance Verification of Arch Weber dated from February 27, 1996, through April 22, 1996; copy of urine drug screen report dated March 28, 1996; and two-page Shepherd Hill Hospital Recovery Plan of Arch Weber dated February 23, 1996.

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 indicate that Arch Joseph Weber was originally licensed to practice pharmacy in the state of Ohio on April 26, 1982; and, on January 23, 1996, Arch Joseph Weber's license was summarily suspended in accordance with Divisions (A) and (B) of Section 3719.121 of the Ohio Revised Code.
- (2) Arch Joseph Weber is addicted to the use of controlled substances, to wit: Arch Joseph Weber has stolen and ingested controlled substances while practicing pharmacy at Revco #3188, 1143 East Main Street, Lancaster, Ohio; Arch Joseph Weber has admitted to stealing and ingesting approximately 2 to 3 ounces of Tussionex or its equivalent, 15 tablets of Lortab or Vicodin, and Hycodan tablets on a routine basis; and has admitted to being addicted to Hydrocodone, a schedule II controlled substance.
- (3) Arch Joseph Weber did, on or about January 4, 1996, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Revco #3188, beyond the express or implied consent of Revco, to wit: on this date Arch Joseph Weber stole the following schedule III controlled substances: 160ml of Tussionex, 4 tablets of Hycodan, and 180ml of Hydromet syrup. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) Arch Joseph Weber did, on or about January 6, 1996, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Revco #3188, beyond the express or implied consent of Revco, to wit: on this date Arch Joseph Weber stole 200ml of Tussionex and 14 tablets of Hycodan, schedule III controlled substances, and 63 units of Nicorette gum, a dangerous drug. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (5) Arch Joseph Weber did, from July 19, 1995, through January 6, 1996, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Revco #3188, beyond the express or implied consent of Revco, to wit: Arch Joseph Weber admittedly stole the following controlled substances while practicing pharmacy:

<u>Drug Name</u>	<u>Shortage</u>
Tussionex Syrup	7,560 ml
Vicodin ES	27 tablets
Lortab 7.5/500	467 tablets
Lorcet Plus	6 tablets
Lorcet 10/650	645 tablets
Hydrocodone 7.5/750	96 tablets
Hydrocodone 5/500	284 tablets
Hydrocodone 10/ 650	254 tablets
Hydrocodone 7.5/ 650	69 tablets
Hycodan	1,002 tablets
Hycodan Syrup	720 ml
Hydromet Syrup	2,280 ml
Hydrocodone 7.5/500	233 tablets
Vicodin	4 tablets

The foregoing audit figures are summarized as follows: Arch Joseph Weber stole 3,087 various controlled substances in tablet form and 10,560ml of various controlled substances in liquid form. Such conduct is in violation of Section 2913.02 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 (5) 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.
- (2) Upon consideration of the record as a whole, the State Board of Pharmacy concludes that paragraph (2) of the Findings of Fact constitutes being addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy as provided in Division (A)(3) 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 January 23, 1996.

Pursuant to Section 4729.16 of the Ohio Revised Code, the State Board of Pharmacy takes the following actions in the matter of Arch Joseph Weber:

- (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 suspends the pharmacist identification card, No. 03-3-14610, held by Arch Joseph Weber indefinitely, effective as of the date of the mailing of this Order. Pursuant to Rule 4729-9-01(F) of the Ohio Administrative Code, Arch Joseph Weber may not be employed by or work in a facility licensed by the Board of Pharmacy to possess or distribute dangerous drugs during such period of suspension.

- (B) After June 1, 1997, the Board will consider any petition filed by Arch Joseph Weber for a hearing, pursuant to Revised Code Chapter 119., upon the question of the reinstatement of his license to practice pharmacy in Ohio. The Board will consider the reinstatement of the license only if the following conditions have been met:
- (1) Arch Joseph Weber must enter into a new contract, from the effective date of this Order, with a limited treatment provider acceptable to the Board, for a period of not less than five years and, upon signing, submit a copy of the contract to the Board office. The contract must provide that:
 - (a) random, **observed** urine screens shall be conducted at least every three months. The urinalysis drug screens must report testing of alcohol and testing of creatinine as the dilutional standard or specific gravity;
 - (b) regular attendance, at least three times per week, at an Alcoholics Anonymous, Narcotics Anonymous, and/or similar support group meetings, and at meetings of a professional support group, is required during outpatient treatment and/or during aftercare; and
 - (c) the program shall immediately report to the Board of Pharmacy any positive urine screens and/or other violations of the contract.
 - (2) Arch Joseph Weber must make restitution to Revco #3188 for the drugs listed in paragraph (5) of the Findings of Fact.
 - (3) Arch Joseph Weber must submit to the Board the following documentation upon petitioning for reinstatement:
 - (a) Outline of his presentation to the Board.
 - (b) Any testimonials from others.
 - (c) All contract(s) with treatment providers and written documentation from the treatment provider(s) regarding compliance with the program(s).
 - (d) Copies of all urine screens reports.
 - (e) Evidence of complete payment of restitution to Revco #3188.
 - (f) Evidence of continuing pharmacy education if required to report during the period of suspension.

The documentation must be submitted to the Board with the request for a reinstatement hearing and will be reviewed by the Compliance Administrator. When all of the required information is received, complete and in proper form, the reinstatement hearing will be scheduled.

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 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 should be forwarded by certified mail, return receipt requested.

THIS ORDER WAS APPROVED BY A VOTE OF THE STATE BOARD OF PHARMACY(Aye-7/Nay-0).

MOTION CARRIED.

SO ORDERED.

ORDER EFFECTIVE JULY 1, 1996

January 23, 1996

Arch Joseph Weber, R.Ph.
8700 Ashford Lake NW
Pickerington, Ohio 43147

Re: Ohio Registered Pharmacist
Number 03-3-14610

Dear Pharmacist:

Records of the Board indicate that you are a pharmacist registered by this Board to practice pharmacy in the state of Ohio.

In accordance with Section 3719.121(A) of the Ohio Revised Code, the Board has determined that you are addicted to the use of controlled substances. Further, in accordance with Section 3719.121(B) of the Ohio Revised Code, the Board has determined that there is clear and convincing evidence that the continuation of your professional practice and/or your method of distributing controlled substances presents a danger of immediate and serious harm to others. The reasons for the Board's action are that you have committed any and/or all of the following acts:

- (1) You are addicted to the use of controlled substances, to wit: you have stolen and ingested controlled substances while practicing pharmacy at Revco #3188, 1143 East Main Street, Lancaster, Ohio; you have admitted to stealing and ingesting approximately 2 to 3 ounces of Tussionex or its equivalent, 15 tablets of Lortab or Vicodin, and Hycodan tablets on a routine basis; and you have admitted being addicted to Hydrocodone, a schedule II controlled substance.
- (2) You did, on or about January 4, 1996, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Revco #3188, beyond the express or implied consent of Revco, to wit: on this date you stole the following schedule III controlled substances: 160ml of Tussionex, 4 tablets of Hycodan, and 180ml of Hydromet syrup. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (3) You did, on or about January 6, 1996, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Revco #3188, beyond the express or implied consent of Revco, to wit: on this date you stole 200ml of Tussionex and 14 tablets of Hycodan, schedule III controlled substances, and 63 units of Nicorette gum, a dangerous drug. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code.
- (4) You did, from July 19, 1995, through January 6, 1996, with purpose to deprive, knowingly obtain or exert control over dangerous drugs, the property of Revco #3188, beyond the express or implied consent of Revco, to wit: you admittedly stole the following controlled substances while practicing pharmacy:

<u>Drug Name</u>	<u>Shortage</u>
Tussionex Syrup	7,560 ml
Vicodin ES	27 tablets
Lortab 7.5/500	467 tablets
Lorcet Plus	6 tablets
Lorcet 10/650	645 tablets
Hydrocodone 7.5/750	96 tablets
Hydrocodone 5/500	284 tablets
Hydrocodone 10/ 650	254 tablets
Hydrocodone 7.5/ 650	69 tablets
Hycodan	1,002 tablets
Hycodan Syrup	720 ml
Hydromet Syrup	2,280 ml
Hydrocodone 7.5/500	233 tablets
Vicodin	4 tablets

The foregoing audit figures are summarized as follows: you stole 3,087 various controlled substances in tablet form and 10,560ml of various controlled substances in liquid form. Such conduct is in violation of Section 2913.02 of the Ohio Revised Code, and if proven constitutes being guilty of a felony or 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.

[paragraph added by Notice dated 02/23/96]

YOU ARE HEREBY NOTIFIED that Section 3719.121(A) of the Ohio Revised Code states, in pertinent part: "any ... pharmacist, ... who is or becomes addicted to the use of controlled substances, shall have his license or registration suspended by the board" Additionally, Section 3719.121(B) of the Ohio Revised Code states, in pertinent part:

(B) The license or registration of a ... pharmacist, ... may be suspended without a prior hearing by the board under which he has been licensed or registered if the board determines that there is clear and convincing evidence that continuation of his professional practice or his method of distributing controlled substances presents a danger of immediate and serious harm to others. ...

WHEREFORE, PURSUANT TO SECTIONS 3719.121(A) and (B) OF THE OHIO REVISED CODE, YOU ARE HEREBY NOTIFIED THAT YOUR REGISTRATION AND LICENSE TO PRACTICE PHARMACY IN THE STATE OF OHIO IS HEREBY SUSPENDED. FURTHER, PURSUANT TO RULE 4729-9-01(F) OF THE OHIO ADMINISTRATIVE CODE, DURING THIS TERM OF SUSPENSION YOU MAY NOT BE EMPLOYED BY OR WORK IN ANY FACILITY LICENSED BY THE BOARD OF PHARMACY TO POSSESS OR DISTRIBUTE DANGEROUS DRUGS. This suspension shall remain in effect until an adjudicatory hearing is held by the Board under Chapter 119. of the Revised Code, during which time you may not engage in the practice of pharmacy. If you request a hearing within 30 days of the time of the mailing of this notice, such will be afforded. You may appear at such hearing in person, by or with your attorney, or you may present your position, arguments or contentions in writing; and at this hearing, you may present evidence and examine any witnesses appearing for and against you.

YOU ARE FURTHER NOTIFIED that Section 4729.16 of the Ohio Revised Code states, in pertinent part:

(A) The state board of pharmacy, after notice and hearing in accordance with Chapter 119. of the Ohio Revised Code, may revoke, suspend, place on probation, or refuse to grant or renew an identification card, or may impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Revised Code for a similar offense, or in the case of a violation of a section of the Revised Code that does not bear a penalty, a monetary penalty or forfeiture of no more than five hundred dollars, if the Board finds a pharmacist or pharmacy intern:

- (1) Guilty of a felony or gross immorality;
- (2) Guilty of dishonesty or unprofessional conduct in the practice of pharmacy;
- (3) Addicted to or abusing liquor or drugs or impaired physically or mentally to such a degree as to render him unfit to practice pharmacy;
- (4) Has been convicted of a misdemeanor related to, or committed in, the practice of pharmacy;
- (5) Guilty of willfully violating, conspiring to violate, attempting to violate, or aiding and abetting the violation of any of the provisions of sections 3715.52 to 3715.72 or Chapter 2925., 3719., or 4729. of the Revised Code;
- (6) Guilty of permitting anyone other than a pharmacist or pharmacy intern to practice pharmacy;
- (7) Guilty of knowingly lending his name to an illegal practitioner of pharmacy or having professional connection with an illegal practitioner of pharmacy; or
- (8) Guilty of dividing or agreeing to divide remuneration made in the practice of pharmacy with any other individual, including, but not limited to, a practitioner or any owner, manager, or employee of a health care facility, rest home, or nursing home.

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 should be forwarded by certified mail, return receipt requested.

(D-960123-035)

BY ORDER OF THE STATE BOARD OF PHARMACY

SUMMARY SUSPENSION EFFECTIVE JANUARY 23, 1996

*This remains in effect until an Order is issued by the Board or a Settlement Agreement is signed.
(Order Effective July 1, 1996)*