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7 Attorneys for the Arizona State Board of Pharmacy

8 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**
9

10 In the Matter of

11 **David Ornelas,**

12 Holder of License No. S009841
As a Pharmacist
13 In the State of Arizona

Board Case No. 15-0017-PHR

**CONSENT AGREEMENT
AND ORDER FOR SUSPENSION
AND PROBATION**

14
15 In the interest of a prompt and judicious settlement of this case, consistent with the
16 public interest, statutory requirements and the responsibilities of the Arizona State Board
17 of Pharmacy ("Board") under A.R.S. § 32-1901, *et. seq.*, David Ornelas ("Respondent"),
18 holder of Pharmacist License No. S009841 in the State of Arizona and the Board enter
19 into the following Recitals, Findings of Fact, Conclusions of Law and Order ("Consent
20 Agreement") as a final disposition of this matter.

21 **RECITALS**

22 1. Respondent has read and understands this Consent Agreement and has had
23 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
24 opportunity to discuss this Consent Agreement with an attorney.
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1 2. Respondent understands that he has a right to a public administrative
2 hearing concerning this matter at which hearing he could present evidence and cross
3 examine witnesses. By entering into this Consent Agreement, Respondent knowingly
4 and voluntarily relinquishes all right to such an administrative hearing, as well as rights
5 of rehearing, review, reconsideration, appeal, judicial review or any other administrative
6 and/or judicial action, concerning the matters set forth herein.

7 3. Respondent affirmatively agrees that this Consent Agreement shall be
8 irrevocable.

9 4. Respondent understands that this Consent Agreement or any part of the
10 agreement may be considered in any future disciplinary action by the Board against him.

11 5. Respondent understands this Consent Agreement deals with Board
12 Complaint No. 4383 involving allegations of unprofessional conduct against Respondent.
13 The investigation into these allegations against Respondent shall be concluded upon the
14 Board's adoption of this Consent Agreement.

15 6. Respondent understands that this Consent Agreement does not constitute a
16 dismissal or resolution of any other matters currently pending before the Board, if any,
17 and does not constitute any waiver, express or implied, of the Board's statutory authority
18 or jurisdiction regarding any other pending or future investigation, action or proceeding.

19 7. Respondent also understands that acceptance of this Consent Agreement
20 does not preclude any other agency, subdivision, or officer of this State from instituting
21 any other civil or criminal proceedings with respect to the conduct that is the subject of
22 this Consent Agreement.

23 8. Respondent acknowledges and agrees that, upon signing this Consent
24 Agreement and returning this document to the Board's Executive Director, he may not
25 revoke his acceptance of the Consent Agreement or make any modifications to the
26

1 document regardless of whether the Consent Agreement has been signed by the
2 Executive Director. Any modification to this original document is ineffective and void
3 unless mutually agreed by the parties in writing.

4 9. This Consent Agreement is subject to the approval of the Board and is
5 effective only when accepted by the Board and signed by the Executive Director. In the
6 event that the Board does not approve this Consent Agreement, it is withdrawn and shall
7 be of no evidentiary value and shall not be relied upon nor introduced in any action by
8 any party, except that the parties agree that should the Board reject this Consent
9 Agreement and this case proceeds to hearing, Respondent shall assert no claim that the
10 Board was prejudiced by its review and discussion of this document or any records
11 relating thereto.

12 10. If a court of competent jurisdiction rules that any part of this Consent
13 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement
14 shall remain in full force and effect.

15 11. Respondent understands that this Consent Agreement is a public record that
16 may be publicly disseminated as a formal action of the Board and may be reported as
17 required by law to the National Practitioner Data Bank and the Healthcare Integrity and
18 Protection Data Bank.

19 12. Respondent understands that any violation of this Consent Agreement
20 constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-
21 1901.01(B) (20) and A.R.S. § - 1927(A) (1).

22 13. Respondent agrees that the Board will adopt the following Findings of Fact,
23 Conclusions of Law and Order.

24 ...

25 ...

26 ...

1 ACCEPTED AND AGREED BY RESPONDENT

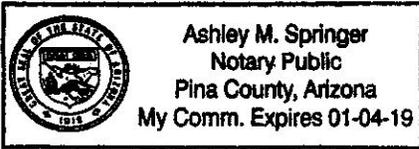
2 David Ornelas
3 _____

Dated: 3/31/15

4 David Ornelas

5 Subscribed and sworn to before me in the County of Pima, State of Arizona,
6 this 31 day of March, 2015, by David Ornelas.

7 Ashley M. Springer
8 NOTARY PUBLIC



9 My Commission expires: 01-04-2019

10 **FINDINGS OF FACT**

11
12 1. The Board is the duly constituted authority for licensing and regulating the
13 practice of pharmacy in the State of Arizona.

14 2. Respondent is the holder of license number S009841 to practice as a
15 pharmacist in the State of Arizona.

16 3. During all relevant times to these findings, Respondent worked as a
17 pharmacist at CVS Pharmacy #09274 located at 615 N. Alvernon, Tucson, Arizona and at
18 CVS Pharmacy #09207 located at 865 E. Grant, Tucson, Arizona.

19 4. On or about January 29, 2014 Board Staff received a report from a CVS
20 Pharmacy Regulatory Compliance Analyst that Respondent was responsible for the loss
21 or theft of 153 tablets of Hydrocodone-APAP 5-325 valued at approximately \$105.00
22 which occurred at CVS Pharmacy #09274 and for the loss or theft of 7 tablets of
23
24
25
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1 Hydrocodone-APAP 5-325 and 149 tablets of Hydrocodone APAP 10-325 valued at
2 \$128.00 which occurred at CVS Pharmacy #09207.

3 5. Respondent was terminated from his employment both CVS Pharmacies for
4 violating CVS Pharmacy policy regarding this conduct.

5
6 6. On or about October 10, 2014 Respondent signed an agreement to
7 participate in a Pharmacists Assisting Pharmacists Program (PAPA) contract.

8 CONCLUSIONS OF LAW

9 1. The Board possesses jurisdiction over the subject matter and over
10 Respondent pursuant to A.R.S. § 32-1901 *et seq.*

11 2. The Board may discipline a pharmacist who has engaged in unprofessional
12 conduct. A.R.S. § 32-1927(A) (1).

13 3. The conduct and circumstances described above constitutes unprofessional
14 conduct pursuant to A.R.S. § 32-1901.01(B) (11) and (13), A.R.S. § 32-1968 (A).

15 ORDER

16 Based upon the above Findings of Fact and Conclusions of Law,

17 IT IS HEREBY ORDERED THAT Pharmacist License No. S009841, which was
18 issued to Respondent for the practice of Pharmacy in the State of Arizona, is hereby
19 placed on **SUSPENSION** for a period of thirty (30) days beginning February 1, 2015 and
20 ending on March 2, 2015. Thereafter, Respondent's license shall be placed on
21 **PROBATION** for a period of at least four (4) years and eight (8) months, but not more
22 than four (4) years and eleven (11) months from the final date of suspension.
23 Respondent's disciplinary period under the suspension and probation shall not exceed
24 five (5) years, unless Respondent affirmatively fails to petition the Board to terminate the
25 probation in accordance with paragraph 14 below.

1 The SUSPENSION and PROBATION are subject to the following conditions:

2 1. Respondent shall return his pharmacist license to the Board for the
3 period of suspension.

4 2. Respondent signed a PAPA contract on or about October 10, 2014.
5 Respondent's PAPA contract shall extend for the entire term of his suspension and
6 probation under this Consent Agreement. Respondent shall abide by each and
7 every requirement of the PAPA contract. Failure to participate in the PAPA
8 program, complete the PAPA program or to abide by the PAPA contract's terms is
9 a violation of this Order.

10 3. Within five (5) years from the execution date of this Consent
11 Agreement, Respondent shall complete 400 hours of community service approved
12 by Board staff. Respondent shall ensure that all entities to which he provides
13 community service verify in writing to the Board the number of hours completed
14 within 30 days of Respondent completing the community service.

15 4. Respondent shall pay all necessary fees and complete all Continuing
16 Education requirements throughout the term of his probation to maintain
17 Pharmacist License No. S009841.

18 5. Respondent shall furnish all pharmacy employers with a copy of this
19 Board Order throughout the term of his probation. Respondent shall ensure that all
20 pharmacy employers submit to the Board a written acknowledgement that they
21 have received a copy of this Consent Agreement within ten (10) days of entering
22 into an employment relationship with Respondent.

23 6. Respondent shall not serve as a preceptor pharmacist or pharmacist
24 in charge throughout the term of his probation.

1 7. Respondent shall advise the Board immediately of any change in
2 pharmacy employment status throughout the term of his probation.

3 8. Respondent shall furnish the Board with a list of all jurisdictions in
4 which he maintains or has maintained licensure in the profession of pharmacy
5 along with the registration numbers of said licenses.

6 9. Respondent shall obey all federal and state laws and rules governing
7 the practice of pharmacy.

8 10. Throughout the term of Respondent's suspension and probation,
9 Respondent shall personally appear before the Board when requested to do so by
10 the Board or Board staff.

11 11. Respondent shall execute all appropriate release of information
12 forms to permit the Respondent's treatment professionals and PAPA to
13 communicate with the Board regarding Respondent's treatment.

14 12. Respondent shall pay all costs associated with complying with this
15 Consent Agreement, including all expenses associated with PAPA.

16 13. If Respondent violates this order in any way or fails to fulfill the
17 requirements of this order, the Board, after giving the respondent notice and the
18 opportunity to be heard, may revoke, suspend or take other disciplinary actions
19 against the Respondent's license. The issue at such a hearing will be limited
20 solely to whether this order has been violated.

21 14. Respondent shall appear before the Board at a regularly scheduled
22 Board meeting five years after the effective date of this Order to request that the
23 probation imposed by this order be terminated. Respondent's failure to petition
24 the Board to terminate the probation shall extend the probation period
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1 DATED this 08 day of April, 2015.

3 ARIZONA STATE BOARD OF PHARMACY

4 (Seal)

5 By: 
6 _____

7 HAL WAND, R.Ph.
8 Executive Director

9 ORIGINAL OF THE FORGOING FILED
10 this 08 day of April, 2015, with:

11 Arizona State Board of Pharmacy
12 1616 W. Adams Street
13 Phoenix, Arizona 85007

14 EXECUTED COPY OF THE FOREGOING MAILED
15 BY CERTIFIED MAIL
16 this 08 day of April, 2015, to:

17 David Ornelas
18 380 E. Pastime, Apt. Q
19 Tucson, Arizona 85705
20 Respondent

21 EXECUTED COPY OF THE FOREGOING MAILED
22 this 08 day of April, 2015, to:

23 Montgomery Lee
24 Assistant Attorney General
25 1275 W. Washington Street, CIV/LES
26 Phoenix, Arizona 85007
27 Attorney for the Board 

28 Doc #4281333