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of the State of California
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3 California Department of Justice
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6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2000-C

12 BEN FRIEDMAN, INC., dba
BOULEVARD PHARMACY
13 16311 Ventura Boulevard
Encino, CA 91436
14 BEN FRIEDMAN, President (6-5-85 to present)
and Pharmacist-in-Charge (6-5-85 to 8-10-99),
15 SUSAN FRIEDMAN, Secretary
Pharmacy No. PHY 30415

**STIPULATED SETTLEMENT AND
ORDER**

16 BENJAMIN FRIEDMAN
17 29360 Queens Way
Agoura Hills, CA 91301
18 Pharmacist License No. RPH 32590

19 and

20 SUSAN FRIEDMAN
29360 Queens Way
21 Agoura Hills, CA 91301
Pharmacist License No. RPH 32592

22 Respondents.

23
24
25 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
26 above-entitled proceedings that the following matters are true:

27 PARTIES

28 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of

1 ADVISEMENT AND WAIVERS

2 7. Respondents have carefully read, fully discussed with counsel, and
3 understand the charges and allegations in Accusation No. 2000-C. Respondents have also
4 carefully read, fully discussed with counsel, and understand the effects of this Stipulated
5 Settlement and Order.

6 8. Respondents are fully aware of their legal rights in this matter, including
7 the right to a hearing on the charges and allegations in the Accusation; the right to be represented
8 by counsel at their own expense; the right to confront and cross-examine the witnesses against
9 them; the right to present evidence and to testify on their own behalf; the right to the issuance of
10 subpoenas to compel the attendance of witnesses and the production of documents; the right to
11 reconsideration and court review of an adverse decision; and all other rights accorded by the
12 California Administrative Procedure Act and other applicable laws.

13 9. Respondents voluntarily, knowingly, and intelligently waive and give up
14 each and every right set forth above.

15 CULPABILITY

16 10. Respondents understand and agree that the charges and allegations in
17 Accusation No. 2000-C, if proven at a hearing, constitute cause for imposing discipline upon
18 their licenses.

19 11. For the purpose of resolving the Accusation without the expense and
20 uncertainty of further proceedings, Respondents agree that, at a hearing, Complainant could
21 establish a factual basis for the charges in the Accusation, and that Respondents hereby give up
22 their right to contest those charges.

23 12. Respondents agree that their licenses are subject to discipline and they
24 agree to be bound by the Board's Order as set forth in the Order below.

25 RESERVATION

26 13. The admissions made by Respondents herein are only for the purposes of
27 this proceeding, or any other proceedings in which the Board of Pharmacy or other professional
28 licensing agency is involved, and shall not be admissible in any other criminal or civil

1 proceeding.

2 CONTINGENCY

3 14. This stipulation shall be subject to approval by the Board. Respondents
4 understand and agree that the Board of Pharmacy's staff and counsel for Complainant may
5 communicate directly with the Board regarding this stipulation and settlement, without notice to
6 or participation by Respondents or their counsel. By signing the stipulation, Respondents
7 understand and agree that they may not withdraw its agreement or seek to rescind the stipulation
8 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
9 as its Decision and Order, the Stipulated Settlement and Order shall be of no force or effect,
10 except for this paragraph, it shall be inadmissible in any legal action between the parties, and the
11 Board shall not be disqualified from further action by having considered this matter.

12 15. The parties understand and agree that facsimile copies of this Stipulated
13 Settlement and Order, including facsimile signatures thereto, shall have the same force and effect
14 as the originals.

15 16. In consideration of the foregoing admissions and stipulations, the parties
16 agree that the Board may, without further notice or formal proceeding, issue and enter the
17 following Order:

18 ORDER

19 IT IS HEREBY ORDERED that public reprovals be issued to Respondents Ben
20 Friedman, Inc., dba Boulevard Pharmacy, Pharmacy Permit No. PHY 30415; Benjamin
21 Friedman, Pharmacist License No. RPH 32590, and Susan Friedman, Pharmacist License No.
22 RPH 32592.

23 Respondents Ben Friedman, Inc., dba Boulevard Pharmacy, Benjamin Friedman,
24 and Susan Friedman, are each, jointly and severally, liable to pay the Board the costs of
25 investigation and prosecution in the amount of \$8000 within sixty (60) days of the effective date
26 of this decision and order.

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02:49P
JUSTICE

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Order and have fully discussed it with my attorney, Ronald S. Marks. I understand the stipulation and the effect it will have on Pharmacy Permit No. PHY 30415, Pharmacist License No. RPH 32590, and Pharmacist License No. RPH 32592. I enter into this Stipulated Settlement and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

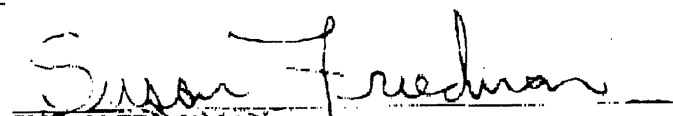
DATED: 9/24/01


BEN FRIEDMAN, INC, dba Boulevard Pharmacy
Respondent

DATED 9/24/01

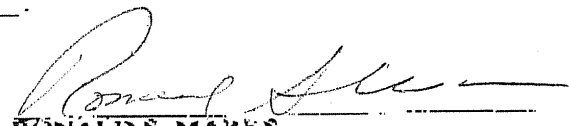

BENJAMIN FRIEDMAN
Respondent

DATE 9/24/01


SUSAN FRIEDMAN
Respondent

I have read and fully discussed with Respondents the terms and conditions and other matters contained in the above Stipulated Settlement and Order. I approve its form and content.

DATED 9/24/01


RONALD S. MARKS
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: 10-18-01

BILL LOCKYER, Attorney General
of the State of California



ANTONIO J. MERINO
Deputy Attorney General

Attorneys for Complainant

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

BEN FRIEDMAN, INC., dba BOULEVARD
PHARMACY, BENJAMIN FRIEDMAN, AND
SUSAN FRIEDMAN,

Respondents.

Case No. 2000-C

DECISION AND ORDER


The attached Stipulated Settlement and Order is hereby adopted by the Board of Pharmacy of the Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on February 7, 2002.

It is so ORDERED January 8, 2002.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STEVE LITSEY
Board President

Exhibit A
Accusation No. 2000-C

1 BILL LOCKYER, Attorney General
of the State of California
2 ANTONIO J. MERINO,
Deputy Attorney General, State Bar No. 64401
3 Department of Justice
300 South Spring Street
4 Los Angeles, California 90013
Telephone: (213) 897-2540
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6 Attorneys for Complainant

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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation) NO. 2000-C
Against:)
11)
12 BEN FRIEDMAN, INC., dba) ACCUSATION
BOULEVARD PHARMACY)
16311 Ventura Boulevard)
13 Encino, CA 91436)
BEN FRIEDMAN, President (6-5-85 to)
14 present) and Pharmacist-in-Charge)
(6-5-85 to 8-10-99),)
15 SUSAN FRIEDMAN, Secretary)
Pharmacy No. PHY 30415)
16)
BENJAMIN FRIEDMAN)
17 29360 Queens Way)
Agoura Hills, CA 91301)
18 Pharmacist License No. RPH 32590)
19 and)
20 SUSAN FRIEDMAN)
29360 Queens Way)
21 Agoura Hills, CA 91301)
Pharmacist License No. RPH 32592)
22)
Respondents.)
23)

24 Complainant Patricia F. Harris, as cause for
25 disciplinary action, alleges:

26 PARTIES

27 1. Complainant is the Executive Officer of the

1 California State Board of Pharmacy ("Board") and makes and files
2 this accusation solely in her official capacity.

3 License Status

4 2. On or about March 1, 1984, Pharmacy No. PHY 30415
5 was issued by the Board to Ben Friedman, Inc., dba Boulevard
6 Pharmacy ("respondent Boulevard Pharmacy"), with an address of
7 record of 16311 Ventura Boulevard, Encino, California 91436. The
8 corporate officers are Ben Friedman, President, and Susan
9 Friedman, Secretary. Ben Friedman, RPH 32590, was the
10 Pharmacist-in-Charge from June 5, 1985, through August 10, 1999.
11 Gene Sperling, was and still is the Pharmacist-in-Charge from
12 August 10, 1999, through the present. At all times relevant
13 herein, said license was, and currently is, in full force and
14 effect.

15 3. On or about November 27, 1979, Original Licentiate
16 Number RPH 32590 was issued by the Board to Benjamin Friedman
17 ("respondent Ben Friedman"), to practice pharmacy in California
18 and at all times relevant herein, said license has been and now
19 is, in full force and effect and will expire on June 30, 2001,
20 unless renewed.

21 4. On or about November 27, 1979, Original Licentiate
22 Number RPH 32592 was issued by the Board to Susan Friedman
23 ("respondent Susan Friedman"), to practice pharmacy in California
24 and at all relevant times herein, said license has been and now
25 is in full force and effect and will expire on June 30, 2001,
26 unless renewed.

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STATUTES

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2 5. Business and Professions Code section 4300
3 (formerly section 4350) permits the Board to take disciplinary
4 action to suspend or revoke a license or permit, and to take
5 disciplinary action against the holder of a license or permit.

6 6. Business and Professions Code section 118(b)
7 provides that the suspension, expiration, or forfeiture by
8 operation of law of a certificate does not deprive the Board of
9 authority or jurisdiction to institute or continue with
10 disciplinary action against the holder of a certificate during
11 the period within which the certificate may be renewed, restored,
12 reissued, or reinstated.

13 7. Business and Professions Code section 4301
14 (formerly section 4350.5) provides in pertinent part that the
15 Board shall take action against any holder of a license who is
16 guilty of unprofessional conduct or whose license has been
17 procured by fraud or misrepresentation or issued by mistake.
18 Said section further provides that unprofessional conduct shall
19 include, but is not limited to:

20 (j) The violation of any of the statutes of this state
21 or of the United States regulating controlled substances and
22 dangerous drugs.

23 (o) Violating or attempting to violate, directly or
24 indirectly, or assisting in or abetting the violation of or
25 conspiring to violate any provision or term of the Pharmacy Law
26 or of the applicable federal and state laws and regulations
27 governing pharmacy, including regulations established by the

1 Board. (Formerly section 4350.5.)

2 8. Business and Professions Code section 4081
3 (formerly section 4232) provides in part, that the owner,
4 officer, and partner of any pharmacy shall be responsible, along
5 with the pharmacist-in-charge, for maintaining all records of the
6 acquisition or disposition of dangerous drugs for at least three
7 years from their making.

8 9. Business and Professions Code section 4113(b)
9 (formerly section 4054(b)) provides, in part, that the
10 pharmacist-in-charge shall be responsible for a pharmacy's
11 compliance with all state and federal laws and regulations
12 pertaining to the practice of pharmacy.

13 10. Business and Professions Code section 4332
14 (formerly section 4232) provides that any person who fails,
15 neglects, or refuses to maintain the records required by Section
16 4081 or who, when called upon by an authorized officer or a
17 member of the Board, fails, neglects, or refuses to produce or
18 provide the records within a reasonable time, or who willfully
19 produces or furnishes records that are false is guilty of a
20 misdemeanor.

21 11. Health and Safety Code section 111340 provides in
22 part that any drug is misbranded unless it bears a label
23 containing (a) the name and place of business of the
24 manufacturer, packer, or distributor; (b) an accurate statement
25 of the quantity of the contents in terms of weight, measure or
26 numerical count.

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1 stating he did not know that he had to keep any, and
2 saying that as soon as he paid the invoice, it is
3 discarded.

4 (c) The Board inspectors also uncovered the
5 following vials, the contents of which were
6 inconsistent with the labels or other records of
7 dispensing: vial labeled as prescription number 280758M
8 showing the manufacturer as Rugby but the tablets
9 contained were manufactured by West-ward; a vial
10 labeled as prescription number 414227 with a Venwood
11 Pharmacy label with manufacturer symbol for Mylan but
12 contained capsules manufacture by Zenith; vial labeled
13 as prescription number 272881, indicating 100 tablets
14 but containing only 80 tablets.

15 14. As a result of the conduct described in paragraph
16 13, subparagraph (a) and (c), respondents Boulevard Pharmacy and
17 Ben Friedman are subject to discipline under Business and
18 Professions Code sections 4301 (j) and (o), for having violated
19 Health and Safety Code section 111340 by failing to accurately
20 label drug containers with accurate statements of manufacturer or
21 quantity of contents.

22 15. As a result of the conduct described in paragraph
23 13, subparagraph (b), respondents Boulevard Pharmacy, Ben
24 Friedman, and Susan Friedman are subject to discipline under
25 Business and Professions Code sections 4301 (j) and (o) for
26 having violated Business and Professions Code sections 4081 and
27 4332 by failing to keep records of acquisition for the period

1 February 1993 to February 1996 on the premises and to make them
2 available for inspectors during business hours.

3 16. As pharmacist-in-charge, respondent Benjamin
4 Friedman is responsible under Business and Professions Code
5 section 4113(b) for the violations committed by respondent
6 Boulevard Pharmacy described hereinabove at paragraphs 13 through
7 15.

8 17. As an officer of respondent Boulevard Pharmacy,
9 Susan Friedman is responsible with respondent Ben Friedman for
10 the violations committed by respondent Boulevard described in
11 paragraph 13, subparagraph (b) and paragraph 15.

12 PRAYER

13 WHEREFORE, Complainant requests that a hearing be held
14 on the matters herein alleged, and that following the hearing,
15 the Board of Pharmacy issue a decision:

16 1. Revoking or suspending Pharmacy License No. PHY
17 330415, issued to Ben Friedman, Inc., dba Boulevard Pharmacy.

18 2. Revoking or suspending Pharmacist License No. RPH
19 32590, issued to Benjamin Friedman.

20 3. Revoking or suspending Pharmacist License No. RPH
21 32592 issued to Susan Friedman.

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4. Ordering, jointly and separately, Ben Friedman, Inc., dba Boulevard Pharmacy, Benjamin Friedman, and Susan Friedman to pay the Board of Pharmacy the reasonable costs of its investigation and enforcement of the case, pursuant to Business and Professions Codes section 125.3.

5. Taking such other and further action as the Board of Pharmacy deems necessary and proper.

DATED: 8/7/00.

P. F. Harris
PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
State of California

Complainant