

1 03-0012-PHR

2 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

3 In the Matter of:

4 JAMES SEITZ  
5 Pharmacist License  
6 Number 13173

**CONSENT AGREEMENT AND  
STIPULATED ORDER  
03-0012-PHR**

7 DIRECTED TO: JAMES SEITZ  
8 102 Linden Street  
9 Morenci, Arizona 85540

**RECITALS**

10 In the interest of a prompt and judicious settlement of this case, consistent with the public interest,  
11 statutory requirements and the responsibilities of the Arizona State Board of Pharmacy ("Board") and  
12 under A.R.S. §§ 32-1901 *et. seq.* and 41-1092.07(F)(5) , JAMES SEITZ ("Respondent"), holder of  
13 pharmacist license number 13173 to practice pharmacy in the State of Arizona, and the Board enter into  
14 the following Recitals, Findings of Fact, Conclusions of Law and Order ("CONSENT AGREEMENT")  
15 as a final disposition of this matter.

16 1. Respondent has read and understands this CONSENT AGREEMENT and has had the  
17 opportunity to discuss this CONSENT AGREEMENT with an attorney, or has waived the opportunity  
18 to discuss this CONSENT AGREEMENT with an attorney.

19 2. Respondent understands that he has a right to a public administrative hearing concerning each  
20 and every allegation set forth in the above-captioned matter, at which hearing he could present evidence  
21 and cross-examine witnesses. By entering into this CONSENT AGREEMENT, Respondent freely and  
22 voluntarily relinquishes all right to such an administrative hearing, as well as rights of rehearing, review,  
23 reconsideration, appeal, judicial review or any other administrative and/or judicial action, concerning the  
24 matters set forth herein. Respondent affirmatively agrees that this CONSENT AGREEMENT shall be  
25 irrevocable.

26 3. Respondent understands that this CONSENT AGREEMENT or any part of the agreement may

1 be considered in any future disciplinary action against him.

2 4. Respondent understands that this CONSENT AGREEMENT does not constitute a dismissal  
3 or resolution of any other matters currently pending before the Board, if any, and does not constitute any  
4 waiver, express or implied, of the Board statutory authority or jurisdiction regarding any other pending  
5 or future investigation, action or proceeding. Respondent also understands that acceptance of this  
6 CONSENT AGREEMENT does not preclude any other agency, subdivision, or officer of this State from  
7 instituting other civil or criminal proceedings with respect to the conduct that is the subject of this  
8 CONSENT AGREEMENT.

9 5. Respondent acknowledges and agrees that upon signing this CONSENT AGREEMENT and  
10 returning this document to the Board's Executive Director, Respondent may not revoke his acceptance  
11 of the CONSENT AGREEMENT or make any modifications to the document regardless of whether the  
12 CONSENT AGREEMENT has been signed by the Executive Director. Any modification to this original  
13 document is ineffective and void unless mutually agreed by the parties in writing.

14 6. Respondent understands that the foregoing CONSENT AGREEMENT shall not become  
15 effective unless and until adopted by the Board and signed by its Executive Director.

16 7. Respondent understands and agrees that if the Board does not adopt this CONSENT  
17 AGREEMENT, he will not assert as a defense that the Board's consideration of this CONSENT  
18 AGREEMENT constitutes bias, prejudice, prejudgement or other similar defense.

19 8. Respondent understands that this CONSENT AGREEMENT is a public record that may be  
20 publicly disseminated as a formal action of the Board and may be reported as required by law to the Health  
21 Care Integrity and Protection Data Bank.

22 9. Respondent understands that if he violates this Order in any way or fails to fulfill the  
23 requirements of this Order, the Board, after giving him notice and the opportunity to be heard, may  
24 revoke, suspend or take other disciplinary action against him. The sole issue at such hearing shall be  
25 whether or not he violated this Order.

26 . . .

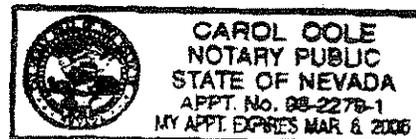
1 opportunity to be heard at the hearing, may revoke, suspend or take other disciplinary action against him.  
2 The sole issue at such hearing shall be whether or not he violated this CONSENT AGREEMENT.

3  
4 REVIEWED AND ACCEPTED BY:

5   
6 JAMES SEITZ

8-13-03  
DATE

7   
8 Notary Public



9 FINDINGS OF FACT

10 By stipulation of the parties, this CONSENT AGREEMENT is entered into for final disposition  
11 of the matters described herein. Respondent acknowledges that sufficient evidence exists for the Board  
12 to make the following Findings of Fact:

13 12. Respondent is the holder of license 13173 which permits him to engage in the practice of  
14 pharmacy in the State of Arizona

15 13. A.R.S. 32-1901(12) states that a "Controlled Substance" means a drug, substance or  
16 immediate precursor identified, defined or listed in title 36, chapter 27, article 2.

17 14. Respondent was employed as a pharmacist between the dates of May 1, 2003 and May 30,  
18 2003 at both Smith's Pharmacy #191, located at 1775 Lakeside Drive, Bullhead City, Arizona and  
19 Smith's Pharmacy #188, 80 N. Acoma, Lake Havasu City, Arizona. Respondent admitted to removing  
20 controlled substances for personal use from both pharmacies (see Exhibit A - Statement from  
21 Respondent's supervisor, Bonnie Brandt, R.Ph. and available tape recorded confession).

22 15. On July 16, 2003, a Board Compliance Officer conducted a controlled substance audit at  
23 Smith's Pharmacy #191 and on July 17, 2003, conducted a controlled substance audit at Smith's  
24 Pharmacy #188. The results of the audits are disclosed in Exhibits C and E respectively, which are  
25 attached to this CONSENT AGREEMENT

26 16. Between the dates of May 1, 2003 and May 30, 2003, Respondent dispensed to himself from

1 § 1306.11.

2 15. Between the dates of May 1, 2003 and May 30, 2003, Respondent dispensed from Smith's  
3 Pharmacy #191 approximately 85 dosage units of phenterimine 30 mg. capsules for his own personal  
4 use, a Class IV Controlled Substance as defined in A.R.S. § 36-2515 and 21 C.F.R. § 1308.14 without  
5 a valid prescription as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-2525(D) and 21 C.F.R.  
6 § 1306.21.

7 16. Between the dates of May 1, 2003 and May 30, 2003, Respondent dispensed from Smith's  
8 Pharmacy #191 approximately 35 dosage units of Didrex® 50 mg. tablets for his own personal use, a  
9 Class III Controlled Substance as defined in A.R.S. § 36-2514 and 21 C.F.R. § 1308.13 without  
10 a valid prescription as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-2525(D) and 21 C.F.R.  
11 § 1306.21.

12 17. Between the dates of May 1, 2003 and May 30, 2003, Respondent dispensed from Smith's  
13 Pharmacy #191 approximately 39 dosage units of hydrocodone with APAP 10/325 mg. tablets for his  
14 own personal use, a Class III Controlled Substance as defined in A.R.S. § 36-2514 and 21 C.F.R. §  
15 1308.13 without a valid prescription as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-  
16 2525(D) and 21 C.F.R. § 1306.21.

17 18. Between the dates of May 1, 2003 and May 30, 2003, Respondent dispensed from Smith's  
18 Pharmacy #188 approximately 125 dosage units of phenterimine 30 mg. capsules for his own personal  
19 use, a Class IV Controlled Substance as defined in A.R.S. § 36-2515 and 21 C.F.R. § 1308.14 without  
20 a valid prescription as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-2525(D) and 21 C.F.R.  
21 § 1306.21.

22 19. Between the dates of May 1, 2003 and May 30, 2003, Respondent dispensed from Smith's  
23 Pharmacy #188 approximately 44 dosage units of hydrocodone with APAP 5/500mg. tablets for his  
24 own personal use, a Class III Controlled Substance as defined in A.R.S. § 36-2514 and 21 C.F.R. §  
25 1308.13 without a valid prescription as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-  
26 2525(D) and 21 C.F.R. § 1306.21.



1 Pharmacists of Arizona (PAPA) and comply with each and every requirement of that contract.

2 25. Respondent may appear before the Board at a regularly scheduled Board meeting on or  
3 after August 28, 2004, to request termination of the suspension and the imposition of a probation for  
4 the remainder of the PAPA contract, at which time a positive recommendation from the PAPA  
5 Steering Committee shall be required

6 26. Respondent shall submit to a minimum of twenty-four (24) annual random biological fluid  
7 screenings for the presence of drugs in the system as determined by PAPA for the period of  
8 suspension and the first twenty-four (24) months of probation. The annual random biological fluid  
9 screenings for the presence of drugs in the system shall increase to a minimum of forty-eight (48)  
10 when Respondent accepts employment as a pharmacist and shall continue for the first twenty-four  
11 (24) months of probation.

12 27. Respondent shall "hold harmless" the provider of any required reports to the Board of  
13 Pharmacy.

14 28. Respondent shall pay all fees and complete all Continuing Education requirements to  
15 maintain Pharmacist License number 13173 throughout the term of suspension and probation.

16 29. Respondent shall not serve as a preceptor pharmacist nor as a pharmacist in charge  
17 throughout the term of probation.

18 30. Respondent shall perform four hundred (400) hours of community service approved by the  
19 Board before the term of probation is completed.

20 31. Respondent shall furnish the Arizona State Board of Pharmacy with a list of all  
21 jurisdictions in which he maintains or has maintained licensure in the profession of pharmacy along  
22 with the registration number of said licenses.

23 32. Respondent is required to advise the Arizona State Board of Pharmacy immediately of any  
24 change in pharmacy employment status throughout the term of probation.

25 33. Respondent is required to furnish any and all pharmacy employers with a copy of this  
26 Board Order throughout the term of probation.

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DATED and EFFECTIVE this <sup>su</sup> 28<sup>th</sup> day of August, 2003

ARIZONA STATE BOARD OF PHARMACY



Hal Wand  
Executive Director

ORIGINAL of the foregoing, fully executed,  
filed this 28<sup>th</sup> day of August 2003, with:

Arizona State Board of Pharmacy  
4425 W. Olive Avenue, #140  
Glendale, AZ 85302

Fully Executed Copy of the foregoing sent  
via Certified US mail this 28<sup>th</sup> day  
of August 2003, to:

JAMES SEITZ  
102 Linden Street  
Morenci, Arizona 85540