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

10 In the Matter of

11 **STEVEN BREESE**

12 Holder of License No. S014427
13 To Practice as a Pharmacist in the State of
Arizona

Board Case No. 11-0007-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.*, Steven Breese ("Respondent"),
18 holder of Pharmacist License Number S014427 in the State of Arizona, and the Board
19 enter into the following Recitals, Findings of Fact, Conclusions of Law and Order
20 ("Consent Agreement") as a final disposition of this matter.

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RECITALS

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1. Respondent has read and understands this Consent Agreement and has had the opportunity to discuss this Consent Agreement with an attorney, or has waived the opportunity to discuss this Consent Agreement with an attorney.

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 numbers 3806 and 3828 involving allegations of unprofessional conduct
13 against Respondent. The investigation into these allegations against Respondent shall be
14 concluded upon the 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
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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), -1927(A)(1).

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

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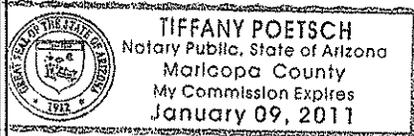
1 ACCEPTED AND AGREED BY RESPONDENT

2 
3 Steven Breese

Dated: 10/6/10

4 Subscribed and sworn to before me in the County of Maricopa, State of Arizona,
5 this 6 day of October, 2010, by Steven Breese.

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7 NOTARY PUBLIC



8 My Commission expires: January 09, 2011

9 **FINDINGS OF FACT**

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

12 2. Respondent is the holder of license number S014427 to practice as a
13 pharmacist in the State of Arizona.

14 3. On or about August 12, 2009, in Phoenix Municipal Court case number M-
15 0741-3995412, Respondent was convicted of driving under the influence – impaired to
16 the slightest degree.

17 4. In about September 2009, Respondent was terminated from Walgreens
18 pharmacy after he admitted to the theft of approximately 1,000 hydrocodone products
19 and approximately 200 alprazolam from two of Walgreens' Phoenix, Arizona stores.

20 5. Hydrocodone/APAP is a Schedule III controlled substance. A.R.S. § 36-
21 2514(A)(5)(d).

22 6. Alprazolam is a Schedule IV controlled substance as defined in A.R.S. §
23 36-2515(A).

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1 CONCLUSIONS OF LAW

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

4 2. Pursuant to A.R.S. § 32-1927(A)(1), the Board may discipline a pharmacist
5 who has engaged in unprofessional conduct.

6 3. Respondent's conduct described above constitutes a violation of A.R.S. §
7 32-1968(A) ("A prescription-only drug shall be dispensed only under one of the
8 following conditions: (1) By a medical practitioner in conformance with A.R.S. § 32-
9 1921; (2) On a written prescription order bearing the prescribing medical practitioner's
10 manual signature; (3) On an electronically transmitted prescription order containing the
11 prescribing medical practitioner's electronic or digital signature that is reduced promptly
12 to writing and filed by the pharmacist; (4) On a written prescription order generated from
13 electronic media containing the prescribing medical practitioner's electronic or manual
14 signature. A prescription order that contains only an electronic signature must be applied
15 to paper that uses security features that will ensure the prescription order is not subject to
16 any form of copying or alteration; (5) On an oral prescription order that is reduced
17 promptly to writing and filed by the pharmacist; (6) By refilling any written,
18 electronically transmitted or oral prescription order if a refill is authorized by the
19 prescriber either in the original prescription order, by an electronically transmitted refill
20 order that is documented promptly and filed by the pharmacist or by an oral refill order
21 that is documented promptly and filed by the pharmacist.").

22 4. The conduct described above constitutes unprofessional conduct pursuant
23 to A.R.S. § 32-1901.01(B)(8) (Committing a felony, whether or not involving moral
24 turpitude, or a misdemeanor involving moral turpitude or any drug-related offense. In
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1 either case, conviction by a court of competent jurisdiction or a plea of no contest is
2 conclusive evidence of the commission).

3 5. The conduct described above constitutes unprofessional conduct pursuant
4 to A.R.S. § 32-1901.01(B)(10) (Violating a federal or state law or administrative rule
5 relating to marijuana, prescription-only drugs, narcotics, dangerous drugs, controlled
6 substances or precursor chemicals when determined by the board or by conviction in a
7 federal or state court).

8 **ORDER**

9 Based upon the above Findings of Fact and Conclusions of Law, the Board issues
10 the following Order:

11 1. Respondent shall pay a civil penalty of \$1,000.00 within **90 days** of the
12 effective date of this Order.

13 2. Respondent's Pharmacist License No. S014427 is hereby **SUSPENDED**,
14 subject to the following terms and conditions:

15 A. Respondent's license is suspended for at least six (6) months from
16 the effective date of this Consent Agreement. The period of suspension shall be
17 determined by the Board after reviewing (i) information from Pharmacists
18 Assisting Pharmacists of Arizona ("PAPA") regarding Respondent's compliance
19 with the terms of his PAPA program/contract; (ii) a progress
20 report/recommendation from Respondent's PAPA counselor, which may be
21 submitted in writing to the Board; and (iii) any input from Respondent.

22 B. No sooner than six (6) months from the effective date of this
23 Consent Agreement, Respondent may request in writing that the Board terminate
24 the suspension. Respondent's request to terminate suspension will be considered
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1 at a regularly scheduled Board meeting. Respondent is required to personally
2 appear at that Board meeting.

3 C. Respondent shall, within ten (10) days of the effective date of this
4 Order, return his pharmacist license to the Board office for the period of
5 suspension.

6 D. Respondent shall, within ten (10) days of the effective date of this
7 Order, contact the Administrative Coordinator of PAPA.¹ Based solely upon the
8 Administrative Coordinator's determination, Respondent shall be required to
9 immediately (within 10 days) (1) enter and successfully complete an in-patient
10 treatment program approved by PAPA; or (2) submit to further evaluation by a
11 PAPA-approved evaluator. If referred for further evaluation, Respondent shall
12 promptly comply with all treatment recommendations made by the evaluator.

13 E. When directed by the PAPA Administrative Coordinator,
14 Respondent shall immediately sign a contract with PAPA, which contract shall
15 extend through the remainder of Respondent's suspension and until Respondent's
16 probation is terminated by the Board as set forth in paragraph 3(A) below.
17 Respondent shall successfully complete the PAPA program and abide by each and
18 every requirement of the PAPA contract. Failure to complete the PAPA program
19 or abide by the PAPA contract's terms is a violation of this Order.

20 3. Upon termination of the period of suspension by the Board, Respondent's
21 reinstated license shall immediately be placed on **PROBATION**. Respondent's
22 probation is subject to the following conditions:

23 A. No sooner than five (5) years from the beginning of Respondent's
24 probationary period, Respondent shall request in writing that the Board terminate
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26 ¹ The Administrative Coordinator for the PAPA program may be reached at (928) 532-2293.

1 his probation. Respondent's request for termination will be considered at a
2 regularly scheduled Board meeting. Respondent is required to personally appear
3 at that Board meeting. Respondent's probationary period will continue until
4 Respondent's request for termination is received and the Board terminates the
5 probation.

6 B. Respondent shall continue to participate in the PAPA program and
7 comply with the terms of his PAPA contract.

8 C. Respondent shall furnish all pharmacy employers with a copy of this
9 Consent Agreement. Respondent shall ensure that all pharmacy employers submit
10 to the Board within ten (10) days of entering into an employment relationship with
11 Respondent a written acknowledgement that they have received a copy of this
12 Consent Agreement.

13 D. Respondent shall advise the Board within ten (10) days of any
14 change in pharmacy employment status.

15 E. Respondent shall not serve as a preceptor pharmacist or pharmacist
16 in charge.

17 4. Within five (5) years from the effective date of this Consent Agreement,
18 Respondent shall complete 400 hours of community service approved by Board staff.
19 Respondent shall ensure that all entities to which he provides community service verify
20 in writing to the Board the number of hours completed within 30 days of completing the
21 community service.

22 5. Respondent shall pay all necessary fees and complete all continuing
23 education requirements throughout the term of his suspension and probation.

1 6. Throughout the term of Respondent's suspension and probation,
2 Respondent shall personally appear before the Board when requested to do so by the
3 Board or Board staff.

4 7. Respondent shall furnish the Board with a list of all jurisdictions in which
5 he maintains or has maintained licensure as a pharmacist along with the registration
6 numbers of said licenses.

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

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

12 10. Respondent shall pay all costs associated with complying with this Consent
13 Agreement, including all expenses associated with treatment, evaluation, and PAPA.

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

19 DATED this 22 day of November 2010.

21 ARIZONA STATE BOARD OF PHARMACY

22 (Seal)

23 By: 
24 _____
25 HAL WAND, R.Ph.
26 Executive Director

1 ORIGINAL OF THE FORGOING FILED
this 22 day of Nov., 2010, with:

2 Arizona State Board of Pharmacy
3 1700 West Washington, Suite 250
4 Phoenix, Arizona 85007

5 EXECUTED COPY OF THE FOREGOING MAILED
BY FIRST-CLASS and CERTIFIED MAIL
this 22 day of Nov., 2010, to:

6 Steven Breese
7 8500 E. Indian School Road #148
8 Scottsdale, Arizona 85251

9 EXECUTED COPY OF THE FOREGOING MAILED
this 22 day of Nov., 2010, to:

10 Michael D. Kimerer, Esq.
11 Kimerer & Derrick, PC
12 221 E. Indianola Ave.
13 Phoenix, AZ 95012
Attorney for Respondent

14 Elizabeth A. Campbell
15 Assistant Attorney General
16 1275 W. Washington Street, CIV/LES
Phoenix, Arizona 85007
Attorney for the Board

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