

BEFORE THE
KANSAS STATE BOARD OF PHARMACY
Landon State Office Building, Room 513
Topeka, Kansas 66612
785/296-4056

In The Matter }
 }
of } Case No.
 }
GRAVES DRUG STORE #10, }
EMORY JOSSERAND, }
Registered Pharmacist, #2-06302, }
Respondent }
_____ }

CONSENT AGREEMENT AND ORDER

Now on this 26th day of August, 1999, the above-captioned matter comes before the Kansas State Board of Pharmacy (Board) by agreement of Graves Drug Store #10, (Registrant) and the Kansas State Board of Pharmacy for the purpose of settling the above-captioned case.

Registrant hereby acknowledges the following:

1. Graves Drug Store #10 is a registered pharmacy within the meaning of the Kansas Pharmacy Act, K.S.A. 65-1625 et seq. and amendments thereto. Emory Jossierand is the registered pharmacist in charge of Graves drug Store #10.

2. On or about January 9, 1998, the Board's investigator, Carly Haynes, inspected Graves Drug #10 and warned the registrant about pre-packaged "bingo cards" that did not have labels upon them. On April 29, 1999, the board's investigator again inspected the registrant and learned that the problem had not been corrected. The investigators report of information indicates the registrant may have violated statutes and regulations governing the practice of pharmacy, to wit:

(a) K.A.R. 68-7-12(h) that each pharmacist in charge shall supervise all pharmacist personnel to insure full compliance with the Kansas pharmacy act;

(b) K.A.R. 68-7-15(d) a proper control system was not established for lot numbers for recall purposes of the prepackaged "bingo cards."

(c) K.A.R. 68-7-16 requires proper labels for prepackaged drug, 213 "bingo cards" were not labeled.

3. The Board conducted an investigation concerning Registrant's alleged violation of statutes and regulations.

4. During the investigation, Registrant was informed of the reported information, and was given the opportunity to respond to the allegations, and did respond to the allegations by admitting that the allegations are true.

5. As a result of the investigation, the Board makes the following factual determinations:

(a) The pharmacist in charge failed to supervise all pharmacist personnel to insure full compliance with the pharmacy act. The pharmacist in charge's failure to properly supervise all pharmacist personnel led to the improper packaging of "bingo cards."

(b) There was no documentation of the lot numbers of the prepackaged drugs when requested by the investigator. The lot numbers were not on the labels because there were no labels on the "bingo cards."

(c) Two hundred thirteen "bingo cards" were not labeled correctly.

6. As a result of the investigation, the Board's investigative committee determined that reasonable grounds exist to believe the Registrant has violated K.A.R. 68-7-12(h), K.A.R. 68-7-15(d), K.A.R. 68-7-16 which subjects the Registrant to discipline pursuant to K.S.A. 65-1627(a)(8) and a fine pursuant to K.S.A. 65-1658.

HOWEVER, Registrant and the Board mutually desire to enter into the Consent Agreement and Order in lieu of adjudicative proceedings to resolve the report of alleged violations.

WHEREFORE Registrant waives all rights to an adjudication of facts and law which could be determined pursuant to a hearing conducted in accordance with the Kansas administrative procedure act in relation to this matter.

WHEREFORE Registrant waives the right to file a motion for reconsideration and all rights of appeal pursuant to the Kansas act for judicial review in relation to this matter.

WHEREFORE Registrant consents to:

(a) The suspension of Emory Josserand's pharmacist in charge registration for 60 days beginning on the date of acceptance of this Consent Agreement and Order by the Board.

(b) This Consent Agreement and Order constitutes the entire agreement between the

Registrant and may be modified or amended only by written agreement signed by the parties.

(c) Registrant shall be responsible for all costs incurred in satisfying the terms of the Consent Agreement and Order.

(d) Notification of the Consent Agreement and Order shall be provided to another jurisdiction's licensing board if the Registrant is also licensed, registered or certified in another jurisdiction.

(e) This Consent Agreement and Order is reportable to state and federal licensing agencies and applicable professional associations.

(f) Evidence of Registrant's willful failure to comply with any of the conditions will result in a hearing, with notice and opportunity to be heard, to determine whether Registrant has in fact willfully failed to comply with any conditions. Upon determination at such hearing that Registrant has willfully breached, violated or failed to comply with any condition, Registrant understands and agrees that the Pharmacy Board may take such other action for a violation of the conditions as they deem appropriate. Registrant acknowledges that this could include the loss of his license.

(g) Registrant acknowledges an affirmative duty to notify the Board within five (5) days of any changes in personal or professional status which would inhibit compliance with conditions. In such event, a designee of the Board is authorized to modify or amend this Consent Agreement and Order in writing.

(h) The registrant/representative of the registrant shall appear in person before the Kansas State Board of Pharmacy on August 26, 1999 at 1:30 p.m. to respond to any questions or comments that may be posed to the registrant by the board.

(i) The payment of a Three Thousand dollar fine payable to the State of Kansas/Kansas State Board of Pharmacy on the date of acceptance of this Consent Agreement and Order by the Board.

(j) Emory Josserand will obtain 20 additional hours of Continuing Professional Education hours to the number of hours required by law to renew his pharmacist license within the next two years of the signing of this Consent Agreement and Order.

(k) Emory Josserand will take the MPJE law exam and obtain a score of 85% or better. In the event Emory Josserand does not obtain a score of 85% or better, Emory Josserand's PIC status will not be restored until he passes the examination with a score of 85% or better.

(l) The respondent will pay the costs involved with this action.

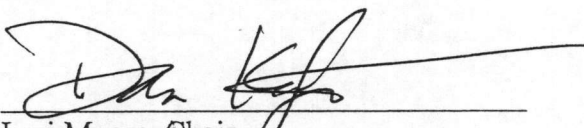
WHEREFORE Registrant consents to the submission of this Consent Agreement and Order to the Kansas State Board of Pharmacy, and understands that upon approval of the Board, this Consent Agreement and Order becomes a final order of the Board.

WHEREFORE Registrant agrees that all information in the possession of the Board or its attorney regarding the complaint which led to this disciplinary action, the investigation of the complaint and all information discovered during the pendency of the disciplinary action may be disclosed to and considered by the Board as part of the presentation and consideration of the proposal of settlement in the form of this Consent Agreement and Order and the Final Order provided for herein, with or without the presence of the registrant or the registrant's attorney. In the event that this Consent Agreement and Order provided for herein are not accepted and approved by the Board, the Respondent further waives any objection to the Board members' consideration of this Consent Agreement and Order or the information mentioned in the preceding sentence and further agrees to waive any claim of due process violation or the right to seek the disqualification of any Board member as a result of the Board member's consideration of said document and information.

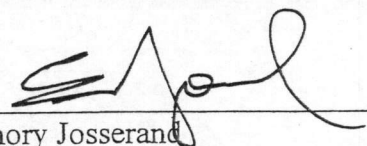
WHEREFORE the Board agrees that so long as registrant complies with the above conditions that the Board will not initiate further disciplinary action against Registrant in relation to violation of K.S.A. 65-1625 et seq regarding this matter.

WHEREFORE the provisions above are consented to and are hereby made the final order of the Kansas State Board of Pharmacy which become effective on the date indicated in the below Certificate of Service.

IT IS SO ORDERED.

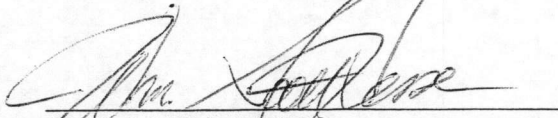

Lori Moore, Chair
Kansas State Board of Pharmacy

APPROVED AND CONSENTED TO:


Emory Josserand
Registrant

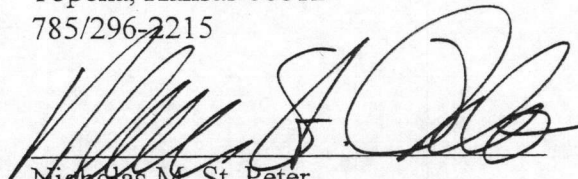
8-25-29
(Date)

SUBMITTED AND APPROVED BY:



WM. SCOTT HESSE
Assistant Attorney General
2d Floor, Judicial Center
Topeka, Kansas 66612
785/296-2215

8/26/99
(Date)



Nicholas M. St. Peter
Herlocker, Roberts and St. Peter
115 E. Ninth Street
P.O. Box 754
Winfield, Kansas 67156-0754

8-26-99
(Date)

Certificate of Service

This is to certify that on the ^{1st}~~26~~ day of ^{September}~~August~~, 1999 a true and correct copy of the above and foregoing Consent Agreement and Order was deposited in the U.S. mail, first class postage prepaid, addressed to:

Wm. Scott Hesse
Assistant Attorney General
2d Floor, Judicial Center
Topeka, Kansas 66614

Emory Josserand
Graves Drug Store #10
905 Main Street
Winfield, Kansas 67156

Nicholas M. St. Peter
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115 E. Ninth Street
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For the Kansas State Board of Pharmacy