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Filed  
OCT 10 2011  
KANSAS STATE  
Board of Pharmacy

**BEFORE THE KANSAS STATE BOARD OF PHARMACY**

*In the Matter of* )  
 ) Case No. 11-79  
Katherine Surowski )  
Kansas License No. 1-13879. )

**PETITION AND NOTICE OF INTENT TO REVOKE REGISTRATION**

COMES NOW the Kansas Board of Pharmacy (the “Board” or “Petitioner”) and reviews the file on Katherine Surowski, Pharmacist (the “Respondent”).

THEREUPON, being duly advised in the matter, the Board’s Investigative Member finds that:

1. The Board is charged with the administration of the Kansas Pharmacy Act (K.S.A. § 65-1626, *et seq.*) (the “Pharmacy Act”) and with the enforcement of the rules and regulations promulgated thereunder.
2. The Board is authorized to initiate proceedings to revoke any license, registration, or permit issued by the Board under the provisions of the Pharmacy Act. More specifically, the Board may limit, suspend or revoke a registration or deny an application for issuance or renewal of any registration as a pharmacy technician on any ground which would authorized the Board to take action against the license of a pharmacist under K.S.A. § 65-1627, and amendments thereto. K.S.A. § 65-1663(e)(1).

3. Respondent is currently registered as a Pharmacist in the State of Kansas having been issued Registration No. 1-13879.

4. Pursuant to laws and regulations pertaining to registration of pharmacy technicians, the Board is authorized to conduct hearings, summary proceedings, and emergency proceedings under the Kansas Administrative Procedure Act (K.S.A. § 77-501, *et seq.*) ("KAPA"). K.S.A. § 65-1663(e)(4). Such proceedings may result in suspension, revocation, and other disciplinary actions affecting Respondent's ability to work as a registered pharmacist in the State of Kansas.

5. K.S.A. § 65-1627(a)(3) provides:

(a) The board may revoke, suspend, place in a probationary status or deny a renewal of any license of any pharmacist upon a finding that: . . . (3) the licensee is found by the board to be guilty of unprofessional conduct or professional incompetency.

6. K.S.A. § 65-1626(rr) defines unprofessional conduct as:

. . . (2) intentional adulteration or mislabeling of any drug, medicine, chemical or poison; (3) causing any drug, medicine, chemical or poison to be adulterated or mislabeled, knowing the same to be adulterated or mislabeled; . . . (5) unlawful possession of drugs and unlawful diversion of drugs to others; . . . (7) conduct likely to deceive, defraud or harm the public; . . .

7. K.S.A. § 65-1627(g) provides: "Orders under this section, and proceedings thereon, shall be subject to the provisions of the Kansas administrative procedure act."

INFORMATION WHICH EVIDENCES THAT  
THE LICENSE OF KATHERINE SUROWSKI AS A PHARMACIST  
IN THE STATE OF KANSAS SHOULD BE REVOKED.

8. Respondent made a plea agreement with the U.S. Justice Department, in the United States District Court for the District of Kansas, pleading guilty to charges of violations of 21 U.S.C. § 846 with reference to § 841(a)(1) (conspiracy to distribute/ dispense controlled

substances) and 18 U.S.C. § 1347 (health care fraud). A copy of Respondent's plea agreement is attached hereto as Exhibit "A" and is hereby incorporated by reference.

9. Respondent committed unprofessional conduct as defined by K.S.A. § 65-1626(rr)(5) when she illegally obtained oxycodone, a Schedule II controlled substance with intent to distribute.

10. All of Respondent's unlawful acts were likely to deceive, defraud or harm the public.

WHEREFORE, pursuant to K.S.A. §§ 65-627, 65-1627(a)(3); 65-1626(rr)(2), (3), (5) and (7), 65-1627a and 77-501 et seq., and for the reasons stated above, petition and notice is hereby given of the Board's intent to revoke Respondent's registration as a pharmacist in the State of Kansas.

#### RIGHT TO HEARING

Respondent may request a hearing in accordance with the provisions of the Kansas Administrative Procedures Act. A written request for a hearing must be filed within fifteen (15) days of service of this petition and notice as prescribed by K.S.A. § 77-542(a). The request must be submitted to the following person at the address shown. Failure to submit a timely request will result in a waiver of Respondent's right to a hearing, and this petition and notice will become a final order revoking Respondent's registration as a pharmacy technician in the State of Kansas.

Debra Billingsley  
Executive Secretary  
Kansas Board of Pharmacy  
800 SW Jackson St., Suite 1414  
Topeka, KS 66612.

**IT IS SO ORDERED.**

Dated this 5<sup>th</sup> day of October, 2011.



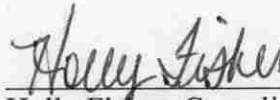
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Investigative Board Member  
Kansas Board of Pharmacy  
800 SW Jackson St., Suite 1414  
Topeka, KS 66612  
(tel.) 785.296.4056  
(fax) 785.296.8420

**CERTIFICATE OF SERVICE**

I hereby certify that on this 10<sup>th</sup> day of October, 2011, I deposited a true and correct copy of the above and foregoing "Petition and Notice of Intent to Revoke License" in the United States Mail, postage prepaid, and addressed to:

Katherine Surowski  
1836 Cassell Rd.  
Manhattan, KS 66502.



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Holly Fisher, Compliance Counsel  
Kansas Board of Pharmacy

FILED IN OPEN COURT

5-5-11  
TIMOTHY M. O'BRIEN, CLERK  
BY Jan Tabla  
DEPUTY CLERK

IN UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 Vs. )  
 )  
 KATHERINE SUROWSKI, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

Case No. 11-40003-01-RDR

PETITION TO ENTER PLEA  
OF GUILTY AND ORDER  
ENTERING PLEA

[Federal Rules of Criminal  
Procedure, Rules 10 and 11]

The defendant represents to the Court:

1. My full true name is: **Katherine Surowski**. I am **35** years of age. I have gone to school to and including **12<sup>th</sup> Grade**. I request that all proceedings against me be in my true name.
2. I am represented by a lawyer. His name is: **James L. Spies**.
3. I received a copy of the Indictment<sup>1</sup> before being called upon to plead. I read the Indictment and have discussed it with my lawyer. I fully understand every charge made against me.
4. I told my lawyer all the facts and circumstances known to me about the charges made against me in the Indictment. I believe that my lawyer is fully informed on all such matters.
5. I know that the Court must be satisfied that there is a factual basis for a plea of "GUILTY" before my plea can be accepted. I represent to the Court that I did the following acts in connection with the charges made against me in Count One.

**See attached Plea Agreement**

<sup>1</sup> "Indictment" also includes "Information."

6. My lawyer has counseled and advised me on the nature of each charge, on all lesser included charges, and on all possible defenses that I might have in this case.
7. I know that I have the right to plead "NOT GUILTY" to any offense charged against me. If I plead "NOT GUILTY" I know the Constitution guarantees me (a) the right to a speedy and public trial by jury; (b) at that trial, and at all stages of the proceedings, the right to the assistance of a lawyer; (c) the right to see and hear all witnesses called to testify against me, and the right to cross-examine those witnesses; (d) the right to use the power and process of the Court to compel the production of any evidence, including the attendance of any witnesses in my favor; and (e) the right not to be compelled to incriminate myself by taking the witness stand; and if I do not take the witness stand, no inference of guilt may be drawn from such failure.
8. I know that if I plead "GUILTY," I am thereby waiving my right to a trial, and that there will be no further trial of any kind, either before a Court or jury; and further, I realize the Court may impose the same punishment as if I had pleaded "NOT GUILTY," stood trial, and been convicted by a jury.
9. I know that if I plead "GUILTY," the Court will ask me questions about the offense(s) to which I have pleaded, and since I will be answering these questions under oath, on the record, and in the presence of my lawyer, that my answers may later be used against me in a prosecution for perjury or false statement.
10. My lawyer informed me that the plea of "GUILTY" could subject me to a mandatory minimum sentence of **N/A** years imprisonment (if applicable) and to a maximum punishment which, as provided by law, is **20** years imprisonment to be followed by a term of supervised release not less than **three (3)** years, and a fine of **\$1,000,000.00** (which may accrue interest if not paid at time of sentencing) for the offense(s) charged in Count(s) **Two (2)** of the Indictment or Information. I have also been informed that should the Court find me in violation of the supervised release term, the term could be revoked and an additional term of imprisonment not to exceed **two (2)** years be imposed. **Additionally**, my lawyer informed me that the plea of "GUILTY" could subject me to a mandatory minimum sentence of **N/A** years imprisonment (if applicable) and to a maximum punishment which, as provided by law, is **10** years imprisonment to be followed by a term of supervised release not more than **three (3)** years, and a fine of **\$250,000.00** (which may accrue interest if not paid at time of sentencing) for the offense(s) charged in Count(s) **Three (3)** of the Indictment or Information. I have also been informed that should the Court find me in violation of the supervised release term, the term could be revoked and an additional term of

imprisonment not to exceed **two (2)** years be imposed. I have also been informed that the Court may order me to make restitution in compliance with 18 U.S.C. §3663 and §3664 or as a condition of supervision, if such is ordered under 18 U.S.C. § 3563, in addition to any other penalty provided by law. I further understand that if I am pleading "GUILTY" to an offense which is subject to the Sentencing Reform Act, I cannot be released on parole and, if imprisonment is ordered in my case, the sentence imposed by the Court will be the sentence I serve less any good time credit if I earn it.

11. I know that in addition to any other penalty imposed, including any fine or restitution order, the Court is required to impose a special monetary assessment in the amount of \$ ----- for each count in which the offense occurred after November 13, 1984. (\$50.00 for a felony, \$25.00 for a misdemeanor; if the defendant is other than an individual, the assessment is \$200.00 for a felony and \$100.00 for a misdemeanor).

The special monetary assessment is **\$100.00** for each count in which the offense occurred after April 24, 1996. (Not less than \$100.00 for a felony, \$25.00 for a misdemeanor; if the defendant is other than an individual the assessment is not less than \$400.00 for a felony and \$100.00 for a misdemeanor). I UNDERSTAND THIS SPECIAL ASSESSMENT MUST BE PAID AT THE TIME OF THE SENTENCING HEARING UNLESS THE COURT DIRECTS OTHERWISE.

12. I understand that if my case involves drug trafficking or drug possession, the Court may deny or suspend my eligibility to receive federal benefits pursuant to 21 U.S.C. § 862, except for those specifically exempted. I understand that if this is my second or subsequent conviction for possession of a controlled substance, the Court may order me to complete drug treatment or community service as specified in the sentence as a condition for reinstatement of benefits.
13. I know that the Court may also order, in addition to the penalty imposed, that I give reasonable notice and explanation of the conviction, in such form as the Court may approve, to the victims of the offense.
14. I have been advised and understand that if I am not a U. S. citizen, a conviction of a criminal offense may result in deportation from the United States, exclusion from admission to the United States, and/or denial of naturalization.
15. If I am on probation or parole in this or any other Court, I know that by pleading guilty here, my probation or parole may be revoked and I may be required to serve time in that case, which will be consecutive, that is, in addition to any sentence imposed upon me in this case.

16. I declare that no officer or agent of any branch of government (federal, state, or local) has promised, suggested, or predicted that I will receive a lighter sentence, or probation, or any other form of leniency if I plead "GUILTY," except as follows: (Here insert any promises or concessions made to the defendant or his attorney. If plea of "GUILTY" is the result of the plea agreement, refer to paragraph (18) on page 4.)

**See attached Plea Agreement**

If anyone else, including my attorney, made such promise, suggestion, or prediction, except as noted in the previous sentence, I know that he had no authority to do so. I know that the sentence I will receive is solely a matter within the control of the Judge. I do understand that there is no limitation on the information the Judge can consider at the time of sentencing concerning my background, character, and conduct, provided the information is reliable, 18 U.S.C. § 3661. I do understand that if I am subject to sentencing under the Sentencing Reform Act and the Sentencing Guidelines issued by the United States Sentencing Commission, a sentencing guideline range is established. The Judge must select a sentence for within the guideline range unless my case presents unusual features, which permit the Judge to depart from the guidelines and impose a sentence either above or below the recommended guideline range. In determining the guideline range, whether to depart, and the sentence to impose, the Court may take into account all relevant criminal conduct, which may include counts to which I have not pled guilty or been convicted and take into account background characteristics, unless otherwise prohibited by law. I further understand that my background characteristics including, but not limited to, the recency and frequency of my prior criminal record, whether or not a substantial portion of my income resulted from criminal conduct, my role in the offense, victim-related circumstances, and my acceptance of the responsibility for the offense, may have a specific effect on the sentence.

I hope to receive leniency, but I am prepared to accept any punishment permitted by law, which the Court sees fit to impose. However, I respectfully request the Court to consider, in mitigation of punishment, that I have voluntarily entered a plea of guilty.

17. I understand that a U.S. Probation Officer will be assigned to conduct a thorough presentence investigation to develop all relevant facts concerning my case unless the Court finds that there is in the record sufficient information to enable the meaningful exercise of sentencing authority pursuant to 18 U.S.C. § 3553. The report of the presentence investigation shall contain the factors set forth in Rule 32. These include the classification of the offense and of the defendant under the categories established by the Sentencing Commission, the kinds of sentence available to the Court, and the sentencing range the officer believes applicable. The report shall include the history and



characteristics of the defendant and such other information required by the Court recognizing the factors set forth in paragraph (16) above.

18. My plea of guilty is the result of my plea agreement entered into between the Government attorney, my attorney, and me.

Since my plea of guilty is the result of a plea agreement, I hereby state that the terms of said agreement are as follows:

**See attached Plea Agreement**

I fully understand that the Court is not bound by the terms of the plea agreement, and may accept or reject said agreement. If the Court rejects the agreement, I also understand the Court will not give me the opportunity to withdraw my plea of guilty, unless the plea agreement, signed by all parties, is executed in accordance with Federal Rules of Criminal Procedure, Rule 11(c)(1)(A) or Rule 11(c)(1)(C).

19. I believe that my lawyer has done all that anyone could do to counsel and assist me, AND I AM SATISFIED WITH THE ADVICE AND HELP HE HAS GIVEN ME.
20. I know that the Court will not permit anyone to plead "GUILTY" who maintains he is innocent and, with that in mind, and because I am "GUILTY" and do not believe I am innocent, I wish to plead "GUILTY" and respectfully request the Court to accept my plea of "GUILTY" and to have the Clerk enter my plea of "GUILTY" as follows:<sup>2</sup>

**Guilty as to Counts Two (2) and Three (3) of the Information**

21. My mind is clear, I am not under the influence of alcohol or drugs, and I am not under a doctor's care. The only drugs, medicines or pills that I took within the past seven (7) days are:

**None**

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<sup>2</sup> The defendant's plea of "GUILTY" or "NOT GUILTY" to each offense should be entered in the blank spaces provided in paragraph (20). If the Indictment charges a single offense, a defendant who wishes to plead "GUILTY" should write in paragraph (20) "GUILTY as charged in the Indictment." If more than one offense is charged, the defendant may write in paragraph (20) "GUILTY as charged in Count(s) \_\_\_\_\_."

22. I have never been confined in any institution for the treatment of mental illness. I have never been adjudicated mentally incompetent. No psychiatrist, physician, or psychologist has ever found me to be mentally ill. I know of no reason why my mental competence at the time of the commission of the alleged offense(s), or at the present time, should be questioned. (If there are any exceptions to the above statement, explain below.)


**No Exceptions**

23. I offer my plea of "GUILTY" freely and voluntarily, and further state that my plea of guilty is not the result of any force or threats against me, or of any promises made to me other than those noted in this petition. I further offer my plea of "GUILTY" with full understanding of all the matters set forth in the Indictment and in this petition, and in the certificate of my attorney which is attached to this petition.

24. I waive the reading of the Indictment in open court, and I request the Court to enter my plea of "GUILTY" as set forth in paragraph (20) of this petition.

25. I swear that I have read, understood, and discussed with my attorney, each and every part of this Petition to Plead Guilty, and that the answers which appear in every part of this petition are true and correct.

Signed and Sworn to by me in open court, in the presence of my attorney, this **5<sup>th</sup> day of May 2011.**



Defendant

Subscribed and sworn to before me this **5<sup>th</sup> day of May 2011.**



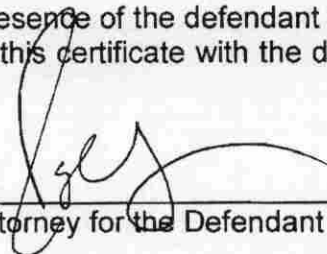
Deputy Clerk

CERTIFICATE OF COUNSEL

The undersigned, as lawyer and counselor for the defendant, **Katherine Surowski**, hereby certifies:

1. I have read and fully explained to the defendant the allegations contained in the Indictment in this case.
2. To the best of my knowledge and belief, the statements, representations and declarations made by the defendant in the foregoing petition are in all respects accurate and true.
3. I explained the maximum penalty for each count to the defendant.
4. The plea of "GUILTY" offered by the defendant in paragraph (20) accords with my understanding of the facts he related to me and is consistent with my advise to the defendant.
5. In my opinion, the defendant's waiver of reading of the Indictment in open court as provided by Rule 10 is voluntarily and understandingly made, and I recommend to the Court that the waiver be accepted.
6. In my opinion, the plea of "GUILTY" offered by the defendant in paragraph (20) of the petition is voluntarily and understandingly made. I recommend that the Court accept the plea of "GUILTY."
7. I have made no predictions or promises to the defendant concerning any sentence the Court may award, except as noted in the space below: **See Attached Plea Agreement**
8. I further represent to the Court that the defendant's plea of "GUILTY" is the result of a plea agreement. The terms of the agreement are set out in paragraph (18) of the petition, and I have informed the defendant that the Court is not bound by the terms of the agreement and that if the Court rejects the agreement, the Court will not give her the opportunity to withdraw her plea of "GUILTY," unless the plea agreement, signed by all parties, is executed in accordance with Federal Rules of Criminal Procedure, Rule 11(c)(1)(A) or Rule 11(c)(1)(C).

Signed to me in open court in the presence of the defendant above named and after full discussion of the contents of this certificate with the defendant, this **5<sup>th</sup> day of May 2011.**

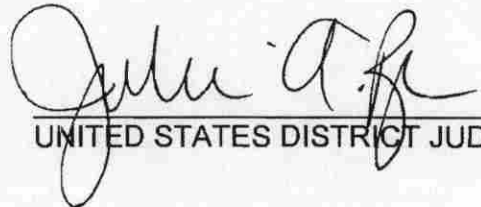
  
\_\_\_\_\_  
Attorney for the Defendant

**ORDER**

I **FIND** that the plea of guilty was made by the defendant freely, voluntarily, and because she is guilty as charged, and not out of ignorance, fear, inadvertence or coercion, and with full understanding of its consequences. I further find that the defendant has admitted the essential elements of the crime charged and is mentally competent.

**IT IS THEREFORE ORDERED** that the defendant's plea of "GUILTY" be accepted and entered as prayed for in the petition and as recommended in the certificate of her lawyer.

Done in open court this 5<sup>th</sup> day of May 2011.

  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 11-40003-01-JAR
	)	
KATHERINE SUROWSKI,	)	
	)	
Defendant.	)	
_____	)	

**PLEA AGREEMENT PURSUANT TO FED. R. CRIM. P. 11(c)(1)(C)**

The United States of America, by and through Tanya J. Treadway, Assistant U.S. Attorney, and Katherine Surowski, the defendant, personally and by and through her attorney, James Spies, hereby enter into the following plea agreement pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure:

1. **Defendant's Guilty Plea.** If the Court permits, the defendant agrees to plead guilty to Counts 2 and 3 of the Information. Count 2 charges a violation of 21 U.S.C. § 846, with reference to Section 841(a)(1), that is, conspiracy to distribute/dispense controlled substances, and Count 3 charges a violation of 18 U.S.C. § 1347, that is, health care fraud. By entering into this plea agreement, the defendant admits to knowingly committing these offenses, and to being guilty of these offenses. The defendant understands that the maximum sentence which may be imposed as to Count 2 of the Information to which the defendant has agreed to plead guilty is not more than 20 years, a fine of not more than 1 million dollars, supervised release of not

less than 3 years, and a special assessment of \$100. The defendant understands that the maximum sentence which may be imposed as to Count 3 of the Information to which the defendant has agreed to plead guilty is not more than 10 years, a fine not to exceed \$250,000, a term of supervised release of not more than 3 years, and a special assessment of \$100.

**2. Factual Basis for the Guilty Plea.** The parties agree the facts constituting the offense to which the defendant is pleading guilty are as follows:

From in or about March 2009, through in or about June 2009, in the District of Kansas, the defendant knowingly and intentionally conspired, confederated, and agreed with others, including Christine Swanson, the defendant's sister, and Denise Carlson, Ms. Swanson's friend, to distribute and dispense Schedule II controlled substances, namely Oxycodone and Oxycontin, and to cause them to be distributed and dispensed, in violation of 21 U.S.C. § 846.

Christine Swanson and Denise Carlson met each other while working in a rehabilitation facility at Mercy Hospital in Manhattan. During the course of the friendship they developed, Christine Swanson informed Denise Carlson that her sister, the defendant, was a pharmacist, and that defendant had previously been in trouble for diverting narcotics. Christine Swanson offered Denise Carlson her and the defendant's help in obtaining controlled substances.

Denise Carlson had access to blank prescription pads, stole them, and she forged the physician's signatures on prescriptions for controlled substances, typically various forms of Oxycodone, a Schedule II. The defendant also had stolen prescription

pads which were used in the conspiracy. Using Denise Carlson's name, Justin Homer's name (Denise Carlson's live-in boyfriend), Christine Swanson's name, and the completely false names of Kevin and Jennifer Douglas, Denise Carlson and the defendant forged prescriptions using stolen prescription pads.

Christine Swanson knew the defendant's work schedule at the Salina K-Mart pharmacy, and would arrange for the defendant to fill the false and forged prescriptions, sometimes calling the pharmacy to make sure the defendant sister was working and alert her to the fact that Christine Swanson and/or Denise Carlson would be coming to the pharmacy to have a prescription filled. Denise Carlson and Christine Swanson sometimes paid cash for the prescriptions, with Christine Swanson providing the cash. Other times, the defendant billed insurance, specifically Denise Carlson's Medicaid insurance and Justin Homer's CVS Caremark insurance

After having the prescriptions filled, the ladies split the pills. Sometimes, as surveillance tapes revealed, defendant's pills would be left in her car for her. As the Pharmacist, the defendant had the greatest control over whether insurance would be billed or whether she would only accept cash for the forged prescriptions. Had the insurance companies known that the prescriptions were false and forged, they would have made no payments for the prescriptions.

The defendant and her co-conspirators were involved in distributing and dispensing approximately 41 grams of Oxycodone on the basis of the following false and forged prescriptions:

Date	Name	Rx Number	Controlled Substance	Strength	Qty
3/29/09	Justin H	2217936	Oxycodone	10 mg	120
3/29/09	Justin H	2217937	Oxycodone	40 mg	120
3/29/09	Justin H	2217938	Oxycodone/APAP	10/325 mg	180
4/18/09	Justin H	2218022	Oxycodone/APAP	10/325 mg	204
4/18/09	Justin H	2218024	Oxycodone	20 mg	120
4/18/09	Denise C	2218025	Oxycontin	10 mg	120
4/18/09	Denise C	2218026	Oxycodone	20 mg	90
4/18/09	Denise C	2218028	Oxycodone	80 mg	56
4/29/09	Denise C	2218069	Oxycodone/APAP	10/325	180
5/2/09	Justin H	2218091	Oxycodone	40 mg	90
5/2/09	Justin H	2218092	Oxycodone/APAP	7.5/500 mg	30
5/2/09	Justin H	2218093	Oxycodone/APAP	5/325 mg	180
5/7/09	Kevin D	2218110	Oxycodone/APAP	10/325 mg	180
5/14/09	Denise C	2218126	Oxycodone/APAP	10/325 mg	220
5/14/09	Justin H	2218127	Oxycodone	10 mg	45
5/14/09	Justin H	2218128	Oxycodone/APAP	10/325 mg	120
5/23/09	Denise C	2218072	Oxycodone	40 mg	40
5/30/09	Denise C	2218073	Oxycodone	80 mg	60
6/7/09	Denise C	2218210	Oxycodone/APAP	10/325 mg	60
6/13/09	Denise C	2218225	Oxycodone/APAP	10/325 mg	60
6/20/09	Jennifer D	2218247	Oxycodone/APAP	10/325 mg	150

3. **Proposed (c)(1)(C) Sentence.** The parties propose, as an appropriate disposition of the case, a sentence of 48 months in prison on Count 2, and a sentence of 12 months in prison on Count 3, to be served concurrently, 3 years of supervised release on both counts, to be served concurrently; no fine; and the mandatory special assessment of \$200 to be paid at the time of the plea. <sup>Sentencing. Jus TJT</sup> The parties seek this binding plea agreement as an appropriate disposition of the case because it brings certainty to



the sentencing process and assures that the defendant and the government will benefit from the bargain they have struck if the Court permits itself to be bound by the proposed sentence; the interests of justice are served by the sentence, thereby assuring that the sentence is consistent with the sentencing factors of 18 U.S.C. § 3553(a); and if the Court does not agree with the sentence, the parties may be restored to the positions they maintained prior to reaching this plea agreement. This agreement centers on the defendant's agreement to enter her guilty plea as soon as the Court's schedule permits, thereby preserving valuable Court, prosecution, defense, probation office, U.S. Marshal's Service, and other law enforcement resources.

**4. Application of the Sentencing Guidelines.** The parties are of the belief that the proposed sentence does not offend the now advisory sentencing guidelines, but because this proposed sentence is sought pursuant to Fed. R. Crim. P. 11(c)(1)(C), the parties are not requesting imposition of an advisory guideline sentence.

**5. Government's Additional Agreement.** In return for the defendant's plea of guilty as set forth herein, the United States Attorney for the District of Kansas also agrees to not file any additional charges against the defendant arising out of the facts forming the basis for the Information.

**6. Defendant's Additional Agreement.** In return for the government's agreement to enter into a Rule 11(c)(1)(C) plea agreement, the defendant agrees to surrender permanently any pharmacy or other health care provider license she currently holds and further agrees to not apply for or reapply for any license that would allow her to work in the health care industry at any time in the future.

7. **Whether to Accept the Proposed Plea Agreement and Sentence is Up to the Court.** The Court has no obligation to accept the proposed plea agreement and sentence. It is solely within the Court's discretion whether to accept the proposed binding plea agreement as an appropriate disposition of the case.

8. **Withdrawal of Plea Permitted Only if the Court Does Not Accept the Plea Agreement and Proposed Sentence.** On the other hand, if the Court agrees to be bound by proposed plea agreement and accepts the defendant's plea of guilty, the defendant will not be permitted to withdraw it. Only if the Court rejects the proposed plea agreement will the defendant be permitted to withdraw her guilty plea.

9. **Payment of Special Assessment.** The defendant understands that a mandatory special assessment of \$200 will be entered against the defendant at the time of sentencing. **The defendant agrees to pay the \$200 at the time of her plea.** *Sentencing. JLS*  
*TJT*

10. **Waiver of Appeal and Collateral Attack.** The defendant knowingly and voluntarily waives any right to appeal or collaterally attack any matter in connection with this prosecution, the defendant's conviction, or the components of the sentence to be imposed herein including the length and conditions of supervised release. The defendant is aware that 18 U.S.C. § 3742 affords a defendant the right to appeal the conviction and sentence imposed. By entering into this agreement, the defendant knowingly waives any right to appeal a sentence imposed which is within the guideline range determined appropriate by the court. The defendant also waives any right to challenge a sentence or otherwise attempt to modify or change her sentence or manner in which it was determined in any collateral attack, including, but not limited to, a motion

brought under 28 U.S.C. § 2255 [except as limited by *United States v. Cockerham*, 237 F.3d 1179, 1187 (10th Cir. 2001)], a motion brought under 18 U.S.C. § 3582(c)(2) and a motion brought under Fed. Rule of Civ. Pro 60(b). In other words, the defendant waives the right to appeal the sentence imposed in this case except to the extent, if any, the court departs upwards from the applicable sentencing guideline range determined by the court. However, if the United States exercises its right to appeal the sentence imposed as authorized by 18 U.S.C. § 3742(b), the defendant is released from this waiver and may appeal the sentence received as authorized by 18 U.S.C. § 3742(a). Notwithstanding the forgoing waivers, the parties understand that the defendant in no way waives any subsequent claims with regards to ineffective assistance of counsel or prosecutorial misconduct.

11. **Waiver of FOIA Request.** The defendant waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case including, without limitation, any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act of 1974, 5 U.S.C. § 552a.

12. **Full Disclosure by United States.** The defendant understands the United States will provide to the court and the United States Probation Office all information it deems relevant to determining the appropriate sentence in this case. This may include information concerning the background, character, and conduct of the defendant including the entirety of the defendant's criminal activities. The defendant

understands these disclosures are not limited to the count to which the defendant has pled guilty. The United States may respond to comments made or positions taken by the defendant or defendant's counsel and to correct any misstatements or inaccuracies. The United States further reserves its right to make any recommendations it deems appropriate regarding the disposition of this case, subject only to any limitations set forth in this plea agreement. The defendant also has the right to provide information concerning the offense and to make recommendations to the court and the United States Probation Office.

**13. Parties to the Agreement.** The defendant understands this plea agreement binds only the defendant and the United States Attorney for the District of Kansas, and that it does not bind any other federal, state, or local prosecution authority.

**14. Identification of Assets & Agreement Concerning Monetary Penalties:**  
The defendant agrees to cooperate fully with the United States Attorneys Office and specifically:

- a. Provide a financial statement on a form approved by the USAO that discloses all assets in which defendant has any interest or over which the defendant exercises control, directly or indirectly, including those held by a spouse, nominee or other third party, as well as any transfer of assets that has taken place within 3 years preceding the entry of this plea agreement.
- b. Submit to an examination, which may be taken under oath and may include a polygraph examination.

- c. Acknowledges that any waivers, consents, or releases signed by the defendant for purposes of the Presentence Investigation Report extends to the USAO.
- d. Will not encumber, transfer, or dispose of any monies, property or assets under her custody or control, without written approval from the USAO.
- e. The defendant understands and agrees that, pursuant to 18 U.S.C. § 3613, whatever monetary penalties are imposed by the court will be due and payable immediately and subject to immediate enforcement by the United States. If the Court imposes a schedule of payments, the defendant understands that the schedule of payments is merely a minimum schedule of payments and not the only method, nor a limitation on the methods, available to the United States to enforce the judgment. If the defendant is incarcerated, the defendant agrees to participate in the Bureau of Prisons' Inmate Financial Responsibility Program, regardless of whether the Court specifically directs participation or imposes a schedule of payments.
- f. The defendant authorizes the U.S. District Court to release the funds posted as security for her appearance bond in this case to be applied to satisfy the financial obligations of the defendant, pursuant to the judgment of the Court.
- g. The defendant waives any requirement for demand of payment on any fine, restitution, or assessment the District Court announces on the record the day of sentencing.

15. **No Other Agreements.** The defendant has had sufficient time to discuss this case, the evidence, and this agreement with the defendant's attorney and defendant is fully satisfied with the advice and representation provided by defendant's counsel. Further, the defendant acknowledges that she has had the plea agreement read to her, understands it and agrees it is true and accurate and not the result of any threats, duress or coercion. The defendant further understands that this plea agreement supersedes any and all other agreements or negotiations between the parties, and that this agreement embodies each and every term of the agreement between the parties. The defendant acknowledges that the defendant is entering into this agreement and is pleading guilty because the defendant is guilty and is doing so freely and voluntarily.

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785-295-2850

Date: May 5, 2011

Randy Hendershot  
Randy Hendershot  
Criminal Supervisor

Date: 5/2/11


Barry F. Grissom  
Barry F. Grissom  
United States Attorney

Date: 5/2/2011

Katherine Surowski  
Katherine Surowski  
Defendant

Date: 5/5/11

Katherine Surowski  
Katherine Surowski  
Defendant



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James Spies  
Attorney for Defendant

Date: 5/5/11