

Received

SEP 12 2006

KANSAS STATE

CONSENT AGREEMENT

THIS CONSENT AGREEMENT is entered into this 12 day of September, 2006 by and between Wilbur D. Hilst (the "Owner"), Red Mesa Pharmacy ("Red Mesa"), and the Kansas Board of Pharmacy (the "Board").

WITNESSETH:

WHEREAS, Wilbur D. Hilst is the Owner of Red Mesa Pharmacy, 8921 W. 21st Street, Suite 101, Wichita, Kansas 67212 ("Red Mesa"), Kansas registration number 2-10025; and

WHEREAS, the Board is the state agency empowered to enforce the Kansas Pharmacy Act, K.S.A. 65-1626 *et seq.*, including the use of disciplinary actions to suspend or revoke the registration of pharmacies that violate the Act; and

WHEREAS, the Board has received certain information, has investigated, and has determined that there are reasonable grounds to believe that the Owner obtained the registration to operate Red Mesa as a result of fraud and misrepresentation, which would constitute probable cause to believe there is a basis for the Board to take disciplinary action against the registration issued for Red Mesa; and

WHEREAS, the Board has received certain information, has investigated, and has determined that there are reasonable grounds to believe that Red Mesa operated without a Pharmacist in Charge, which would constitute probable cause to believe there is a basis for the Board to take disciplinary action against the registration issued for Red Mesa; and

WHEREAS, the Board has received certain information, has investigated, and has determined that there are reasonable grounds to believe that Red Mesa operated without a licensed pharmacist present, which would constitute probable cause to believe there is a basis for the Board to take disciplinary action against the registration issued for Red Mesa; and

WHEREAS, the Board has received certain information, has investigated, and has determined that there are reasonable grounds to believe that Red Mesa operated without maintaining inventories and records of controlled substances separately from all other records, which would constitute probable cause to believe there is a basis for the Board to take disciplinary action against the registration issued for Red Mesa; and

WHEREAS, the Board has received certain information, has investigated, and has determined that there are reasonable grounds to believe that Red Mesa operated without maintaining a medication profile record system, which would constitute probable cause to believe there is a basis for the Board to take disciplinary action against the registration issued for Red Mesa; and

WHEREAS, the Board has received certain information, has investigated, and has determined that there are reasonable grounds to believe that Red Mesa transmitted prescription drug orders by way of electronic transmission without the identifying information of the transmitter or the pharmacy intended to receive the transmission, which would constitute probable cause to believe there is a basis for the Board to take disciplinary action against the registration issued for Red Mesa; and

WHEREAS, the Board has received certain information, has investigated, and has determined that there are reasonable grounds to believe that Red Mesa operated a pharmacy without a reference library, either immediately accessed by a computer or printed, which would constitute probable cause to believe there is a basis for the Board to take disciplinary action against the registration issued for Red Mesa; and

WHEREAS, the Board has received certain information, has investigated, and has determined that there are reasonable grounds to believe that Red Mesa permitted an individual to

function as a pharmacy technician without being registered, which would constitute probable cause to believe there is a basis for the Board to take disciplinary action against the registration issued for Red Mesa; and

WHEREAS, the Board has received certain information, has investigated, and has determined that there are reasonable grounds to believe that Red Mesa operated a pharmacy without a current pharmacy technician training course, which would constitute probable cause to believe there is a basis for the Board to take disciplinary action against the registration issued for Red Mesa; and

WHEREAS, the Board has received certain information, has investigated, and has determined that there are reasonable grounds to believe that Red Mesa produced prescription labels without the identification number assigned to the prescription by the dispensing pharmacy and the name of the manufacturer or distributor of the drug or device, or an easily identified abbreviation of the manufacturer's or distributor's name, which would constitute probable cause to believe there is a basis for the Board to take disciplinary action against the registration issued for Red Mesa; and

WHEREAS, the Board is willing to forego the proceeding to request suspending or revoking the registration of Red Mesa in return for certain agreements by the Owner and Red Mesa as detailed herein.

THEREFORE, for good and valuable consideration, the Owner, Red Mesa, and the Board agree as follows:

1. The Board will forego the proceeding to request suspending or revoking the registration of Red Mesa based upon the Owner and Red Mesa's agreement to do, or consent to, the following:

A. Red Mesa shall immediately cease operating in the State of Kansas and shall not again resume operations in the State of Kansas.

B. Red Mesa shall pay an administrative fine in the amount of \$140.00, the receipt of which is hereby acknowledged.

C. The Owner shall not again apply for a pharmacy registration under the name of Red Mesa or any other pharmacy in the State of Kansas.

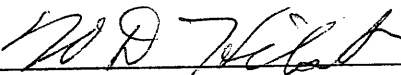
D. The Owner shall notify the Board in writing, upon the execution of this agreement, of any other pharmacy registration application that has been submitted to the Board in which the Owner has any ownership interest.

E. The Owner shall notify the Board in writing, upon the execution of this agreement, of any other pharmacy in the State of Kansas in which the Owner has any ownership interest.

F. The Owner shall have no ownership interest in Red Mesa or any other pharmacy in the State of Kansas, whether the Owner resides in the State of Kansas or outside the State of Kansas.

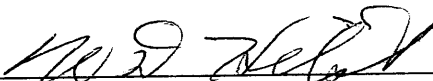
2. Red Mesa hereby admits and waives any further proof in this or any other proceeding before or initiated by the Board that the violations of the Kansas Pharmacy Law, as described above, occurred.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed the day and year first written above.



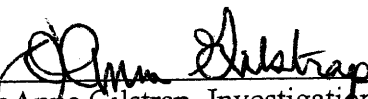
Wilbur D. Hilst

RED MESA PHARMACY

By: 

Wilbur D. Hilst

KANSAS PHARMACY BOARD

By: 

JoAnne Gilstrap, Investigation Member