

**BEFORE THE NEVADA STATE BOARD OF PHARMACY**

**NEVADA STATE BOARD OF PHARMACY,**

**Petitioner,**

**v.**

**KIMBERLY A. ASTORINO, RPH,**  
**Certificate of Registration No. 11536,**

**Respondent.**

**CASE NO. 18-051-RPH-S**

**STIPULATION AND ORDER**

Brett Kandt, General Counsel for Petitioner the Nevada State Board of Pharmacy (Board), and Respondent Kimberly A. Astorino, RPh, Certificate of Registration No. 11536, by and through counsel, Kathleen M. Jones, Esq., and Kevin C. Murphy, Esq., **HEREBY**

**STIPULATE AND AGREE THAT:**

1. The Board has jurisdiction over Respondent and this matter.
2. On or about July 23, 2021, Respondent was served with the Notice of Intended Action and Accusation (Accusation) on file in this matter together with the Statement to Respondent and Notice of Hearing.
3. On or about August 6, 2021, Respondent filed an Answer and Notice of Defense to the Accusation.
4. Respondent is fully aware of the right to seek the advice of counsel in this matter and obtained the advice of counsel prior to entering into this Stipulation.
5. Respondent is aware of the right to a hearing on the matters alleged in the Accusation, the right to reconsideration, the right to appeal and any and all other rights which may be accorded to her pursuant to NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

6. Conditioned on the acceptance of this Stipulation by the Board, and with the exception of the right to challenge any determination that Respondent has failed to comply with the provisions of this Stipulation, Respondent hereby freely and voluntarily waives her rights to a hearing, reconsideration, appeal and any and all other rights related to this action that may be accorded to her by NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

7. Respondent admits that evidence exists, and that Board staff prosecuting this case could present such evidence at an administrative hearing, to establish a factual basis for the violations alleged in the Accusation, *to wit*, that Respondent violated 21 U.S.C. § 331, 21 U.S.C. § 351, NRS 585.370, NRS 585.520(1) and/or NRS 639.282(1)(d), and engaged in unprofessional conduct as defined in NAC 639.945(1)(i), when she directed a pharmaceutical technician to reconstitute medication for a prescription with an open and partially-consumed bottle of drinking water.

8. Those violations are plead with particularity in the Accusation and are grounds for action pursuant to NAC 639.252(2), NRS 639.210 and NRS 639.255.

9. To resolve this matter without incurring any further costs or the expense associated with a hearing, the Board and Respondent Kimberly A. Astorino, RPh, Certificate of Registration No. 11536, stipulate to the following penalties:

A. Respondent shall accept this Stipulation and Order as a public reprimand regarding her duties and responsibilities as a pharmacist;

B. Respondent shall pay a fine of One Thousand Dollars (\$1000.00) for the violations, payable by *cashier's check* or *certified check* or *money order* made payable to "State of Nevada, Office of the Treasurer," to be received by the Board's Reno office located at 985

Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within thirty (30) days of the effective date of this Order;

C. Respondent shall pay Five Hundred Dollars (\$500.00) to partially reimburse the Board for recoverable attorney's fees and costs incurred in investigating and prosecuting this matter, payable by *cashier's check* or *certified check* or *money order* made payable to "Nevada State Board of Pharmacy," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within thirty (30) days of the effective date of this Order; and

D. Respondent shall complete two (2) extra hours of continuing education (CE) on supervising pharmaceutical technicians, and two (2) extra hours of CE on nonsterile compounding that includes medication reconstitution, in addition to the CE hours she must otherwise complete to maintain licensure. Respondent must provide certificates demonstrating that she completed those additional CEs within sixty (60) days of the effective date of this Order.

10. Any failure by Respondent to comply with the terms of this Order may result in issuance by the Executive Secretary of an order to show cause pursuant to NAC 639.965 directing that Respondent to appear before the Board at the next regularly scheduled meeting for a show cause hearing. If such a hearing results in a finding of a violation of this Order by Respondent, the Board may impose additional discipline upon Respondent consistent with the provisions of NRS Chapter 639.

11. General Counsel will present this Stipulation to the Board for approval pursuant to NRS 622.330 at the Board's regularly scheduled public meeting on October 13, 2021. Respondent may appear at the meeting to answer questions from the Board Members and/or Board Staff. The Board Members and Staff may discuss and deliberate regarding this Stipulation, even if Respondent is not present at the meeting.

12. The Board has discretion to accept this Stipulation, but it is not obligated to do so. If this Stipulation is approved by the Board, it shall be a public record pursuant to NRS 622.330 and shall be reported to the National Practitioner Data Bank pursuant to 42 U.S.C. § 1396r-2 and 45 CFR Part 60.

13. If the Board rejects any part or all of this Stipulation, and unless they reach an alternative agreement on the record during the hearing, the parties agree that a full hearing on the merits of this matter may be heard by the Board. The terms and admissions herein may not be used or referred to in a full hearing on the merits of this matter.

14. Subject to the approval of this Stipulation by the Board, the Board and Respondent agree to release each other from any and all additional claims arising from the facts set forth in the Accusation on file herein, whether known or unknown that might otherwise have existed on or before the effective date of this Order.



Respondent has fully considered the charges and allegations contained in the *Notice of Intended Action and Accusation* in this matter, and the terms of this Stipulation, and has freely and voluntarily agreed to the terms set forth herein, and waived certain rights, as stated herein.

**AGREED:**

Signed this \_\_\_\_ day of October, 2021

Signed this \_\_\_\_ day of October, 2021



KIMBERLY A. ASTORINO, RPH,  
Certificate of Registration No. 11536

BRETT KANDT, ESQ.  
General Counsel  
Nevada State Board of Pharmacy

APPROVED AS TO FORM AND CONTENT  
this 7 day of October, 2021

  
KATHLEEN M. JONES, ESQ.  
KEVIN C. MURPHY, ESQ.  
Counsel for Respondent

**DECISION AND ORDER**

The Nevada State Board of Pharmacy hereby adopts the foregoing Stipulation as its decision as to Kimberly A. Astorino, RPh, Certificate of Registration No. 11536, in Case No. 18-051-RPH-S and hereby orders that the terms of the foregoing Stipulation be made effective upon execution below.

**IT IS SO ORDERED.**

Entered this \_\_\_\_ day of October, 2021.

Helen Park, Pharm.D.  
President  
Nevada State Board of Pharmacy

Persi J. Mishel, Esq.  
Nevada Bar No: 2270  
10161 Park Run Dr., Suite 150  
Las Vegas, NV 89145  
Tel: (702) 981-3043  
[mishelpersi@yahoo.com](mailto:mishelpersi@yahoo.com)



Attorney for Respondent Ghayda Alrass

**BEFORE THE NEVADA STATE BOARD OF PHARMACY**

NEVADA STATE BOARD OF PHARMACY, )  
 )  
Petitioner, )  
 )  
v. )  
 )  
GHAYDA ALRASS, RPH, )  
Certificate of Registration No. 13706, )  
 )  
Respondent. )

CASE NO. A-21-065-RPH-N

Date of Hearing: 10/13/21  
Time of Hearing: 9:00 a.m.

**RESPONDENT'S PREHEARING STATEMENT**

Respondent, Ghayda Alrass, by and through her attorney, Persi J. Mishel, Esq., hereby files her Prehearing Statement.

**A. Introduction:**

The Board began its formal investigation of Respondent after the Board received a letter dated May 11, 2021, from Ms. Hall who is Relay's Pharmacy Supervisor.<sup>1</sup> Proposed Board's Exhibit (Proposed Exhibit) pages 1-2.<sup>2</sup> After the

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<sup>1</sup> Ms. Hall's letter indicates she reported alleged missing "two medications" to the Board on May 7, 2021.

1 Board completed its investigation that was conducted by Ms. Segedy, on  
2 August 3, 2021, the Board sent by a certified mail its Notice of Intended Action  
3 and Accusation to Respondent ("Notice of Intended Action"). There are five  
4 causes of actions pleaded in the Notice of Intended Action regarding two  
5 medications (i.e., Diazepam and Hydromorphone). According to Relay's records  
6 the total loss to Relay's for the two medications is approximately \$74. Proposed  
7 Exhibit, pages 30 and 33. Further, the records show Relay's is claiming a total  
8 loss of approximately \$25 for pens, paper bowls, rubber bands, acetaminophen  
9 and etc., Proposed Exhibit, pages 20-21. Therefore, total alleged loss to relay's  
10 is less than \$100. Approximately 23 federal and state statutes, codes,  
11 regulations have been cited in the Notice of Intended Action and yet there is no  
12 mention of the total alleged loss to Relay's. <sup>3</sup>

13  
14  
15 <sup>2</sup> By referring to Proposed Exhibit, Respondent does not waive any evidentiary  
16 objections she has to any pages of the Proposed Exhibit.

17 <sup>3</sup> There are many of statutes and codes that are not applicable to this case.  
18 For example, the Board has cited NAC 639.945 (1) (g). This code is not  
19 applicable to this case because there is no evidence showing Respondent  
20 engaged in any act "so that unqualified persons can circumvent any law  
21 pertaining to the legal sale of such articles." The Board has also cited NRS  
22 205.08345. This statute has no application to this case because there is no  
23 evidence showing "organized" retail theft. The Board has cited NRS 205.220  
24 and NRS 205.222. There is no evidence showing "grand larceny." Relay's  
25 records show a total loss of less than \$100.

1 **B. Statement of Facts:**

2 Please see attached Respondent's Declaration marked as Exhibit 1.

3  
4 **C. Legal Arguments:**

- 5 **1. There is no reliable and credible evidence showing that**  
6 **Respondent intentionally acquired controlled substance and**  
7 **dangerous drugs, other than Amlodipine, which she took due to**  
8 **her extreme and urgent medical condition.**

9 As noted above, it appears the Board launched its formal investigation  
10 after it received Ms. Hall's letter.<sup>4</sup> Ms. Hall's letter is replete with evidentiary  
11 issues and inaccuracies.

12 NRS 639.248 provides: Hearsay evidence may be admitted for the purpose  
13 of supplementing or explaining any direct evidence but is not sufficient in itself  
14 to support a finding.

15 In her letter, there are several references to not only hearsay, but double-  
16 hearsay. For example, she notes the pharmacist in charge (PIC) stated to Ms.  
17 Hall that on April 22, 2021, that Respondent "exhibited suspicious behavior."  
18 Or that a supervisor told Ms. Hall that on May 1, 2021, PIC told her 52 tablets  
19 Respondent was acting strange." Or that On April 26, 2021, PIC told her 52  
20

21  
22  
23 <sup>4</sup> Notice of Intended Action shows the investigation started "on or about May  
24 3, 2021." However, it is not clear if Relay's sent a letter to the Board  
25 before May 11, 2021, requesting an investigation.



1 tablets of Diazepam 10mg were missing. Or that the Asset Protection viewed  
2 Respondent taking "unidentified drug off the pharmacy shelf."

3  
4 These observations are not from Ms. Hall's own observations. She is stating  
5 what others told her. Therefore, Respondent objects to her statements and  
6 requests they be excluded.

7  
8 The records clearly show that Respondent did not work on April 26, 2021.  
9 Proposed Exhibit, page 18. Indeed, she did not work on April 23, 24, 25, 26,  
10 2021. Id. There is no reliable and credible evidence showing it was Respondent  
11 who took "Diazepam 10mg." Respondent denies taking this medication. See  
12 attached Exhibit 1. "Suspicious behavior" does not constitute credible evidence  
13 nor alleged discovery of missing medications on April 26, considering the fact  
14 that Respondent do not work from April 23-26.

15  
16 Ms. Hall's letter shows that on April 27, 2021, the PIC told her that 10 pills  
17 of hydrocodone/acetaminophen were missing. As noted above, Respondent did  
18 not work on that day. Respondent denies taking this medication. See attached  
19 Exhibit 1.

20 Regarding "unidentified drug off the pharmacy shelf" that the "Asset  
21 Protection" observed that Respondent allegedly drank with "soda,"<sup>5</sup>  
22 Respondent admits taking Amlodipine 10mg due to her extreme and urgent  
23

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24 <sup>5</sup> The video surveillance does not show Respondent was consuming "soda."  
25

1 blood pressure condition. See attached Exhibit 1. Due to her extreme and  
2 urgent medical and mental condition, at the time, she did not realize she took  
3 acetaminophen, which is an OTC medication. Id.

4  
5 **2. There is no reliable and credible evidence showing that**  
6 **Respondent intentionally possessed acquired controlled substance**  
7 **and dangerous drugs, other than Amlodipine, which she took due**  
8 **to her extreme and urgent medical condition.**

9 As noted above, Respondent admits taking Amlodipine 10mg due to her  
10 extreme and urgent condition and acetaminophen, which is an OTC  
11 medication. There is no reliable and credible evidence showing Respondent  
12 took the two medications noted in the Notice of Intended Action (i.e., Diazepam  
13 and Hydromorphone).

14 **3. There is no reliable and credible evidence showing that**  
15 **Respondent unlawfully used controlled substance and dangerous**  
16 **drugs, other than Amlodipine, which she took due to her extreme**  
17 **and urgent medical condition.**

18 As noted above, Respondent admits taking Amlodipine 10mg due to her  
19 extreme and urgent medical condition and also acetaminophen, which is an  
20 OTC medication. There is no reliable and credible evidence showing  
21 Respondent used controlled and dangerous drugs such as Diazepam and  
22 Hydromorphone.

23 **4. Considering Respondent's extreme and urgent medical condition**  
24 **at the time she took Amlodipine, such a conduct should not be**  
25 **considered unprofessional.**

As noted above, Respondent denies taking the two medications noted

1 in the Notice of Intended action. Considering her extreme and urgent medical  
2 condition at the time she took Amlodipine; her conduct should not be  
3 considered "unprofessional."

4  
5 **5. Respondent did not engage in unprofessional conduct by allegedly**  
6 **committing fraud or deceitful practice.**

7 Respondent admits taking Amlodipine, acetaminophen, pens, paper bowls,  
8 rubber bands, and etc. She took Amlodipine and acetaminophen for reasons  
9 noted above. She took the other items due to the humiliation she suffered by  
10 the store supervisor and her intention to "withdraw HR attention so they will  
11 come down to the pharmacy and hear my statement about the unfair way that  
12 supervisor treated me." See attached Exhibit 1, page 3.

13 Relay's claim that the total loss of approximately \$25 for pens, paper bowls,  
14 rubber bands, acetaminophen and etc. Proposed Exhibit, pages 20-21, and  
15 \$74 for the two medications that Respondent denies taking. Exhibit, pages 30  
16 and 33.

17  
18 Based on the above, Respondent did not have any intention to commit  
19 fraud or engage in deceitful practice.

20  
21 **6. If the Board is inclined to impose sanctions against Respondent, it**  
22 **should be lenient due to Respondent's special circumstances.**

23 It is a reality of life that we all make mistakes. Respondent admitted that  
24 she has made mistakes and she has used poor judgment. The question for  
25 the Board is whether to impose any sanctions against Respondent and if so,



1 what type of sanctions.

2  
3 Respondent would like the Board to consider the following:

- 4  
5 1. She has been a pharmacist in two states (California and Nevada) for  
6 approximately 24 years with no history of any disciplinary proceeding.  
7  
8 2. The public has not been harmed by Respondent's conduct.  
9  
10 3. Total loss to Relay's is less than \$100.  
11  
12 4. She has been humiliated by the way her supervisors treated her at  
13 Relay's. That is why she has used poor judgment in her conduct.  
14  
15 5. Her poor judgment was not motivated by any pecuniary gain.  
16  
17 6. She has undergone a serious surgery on her back, as she noted in her  
18 Declaration. She is disabled, has not worked for months and according  
19 to her doctor, she will not be able to work anytime soon.  
20  
21 7. She was under several medications when the Board initiated its  
22 investigation. She informed Ms. Segedy of those medications.  
23  
24 8. She signed statements presented to her by Ms. Segedy without been  
25 informed of the consequences of her signing.  
26  
27 9. She has been under tremendous stress due to these proceedings.  
28  
29 10. She has incurred substantial financial burden for attorney's fees,  
30 costs, and etc.

31 ///



1       **D. List of Witnesses:**

2  
3       Respondent may testify only as a rebuttal witness, if necessary.

4       **E. List of Documents:**

- 5       1. Exhibit 3 attached to Respondent's Reply to Opposition to Motion to  
6       Suppress.
- 7       2. Attached Exhibit 1.
- 8       3. The Board's Proposed 42-page Exhibit without waiving any evidentiary  
9       objections.

10      Dated this 6<sup>th</sup> day of October, 2021.

11                               /s/ Persi J. Mishel  
12                               Persi J. Mishel, Esq.

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PREHEARING STATEMENT to the following persons:

Mark Sedar, Chief Operating Officer  
[mnsedar@pharmacy.nv.gov](mailto:mnsedar@pharmacy.nv.gov)

/s/ Persi J. Mishel  
Persi J. Mishel, Esq.

Persi J. Mishel, Esq.  
Nevada Bar No: 2270  
10161 Park Run Dr., Suite 150  
Las Vegas, NV 89145  
Tel: (702) 981-3043  
[mishelpersi@yahoo.com](mailto:mishelpersi@yahoo.com)



Attorney for Respondent Ghayda Alrass

**BEFORE THE NEVADA STATE BOARD OF PHARMACY**

NEVADA STATE BOARD OF PHARMACY, )  
 )  
Petitioner, )  
 )  
v. )  
 )  
GHAYDA ALRASS, RPH, )  
Certificate of Registration No. 13706, )  
 )  
Respondent. )

CASE NO. A-21-065-RPH-N

**DECLARATION OF GHAYDA ALRASS IN LIEU OF HER TESTIMONY**

I, Ghayda Alrass, hereby declare as follows:

1. I am the Respondent in the above-referred titled case. I have personal knowledge of the statements below and would be competent to testify to these statements, if I am called to testify.
2. In January 2021, Raley's hired me as a float pharmacist.
3. Raley's provided me with only 2 ½ days of training.
4. I worked for Raley's as a float pharmacist on few occasions from February to May 2021.
5. On April 22, 2021, I worked at Raley's #110, at 2389 Wingfield Hills Rd, In Sparks, from 10:00 a.m. to 6:30 p.m.

1 6. Ms. Jennifer Hall of Raley's claims that on April 26, 2021, its pharmacist  
2 in charge (PIC) discovered 52 tablets of Diazepam 10mg were missing. I  
3 did not work on April 26. Relay's records show that I did not work from  
4 April 23-April 29.

5 7. I did not take 52 tablets of Diazepam 10mg.

6 8. Ms. Hall claims that PIC told her that on April 22, 2021, I "exhibited  
7 suspicious behavior." This statement is vague. It does not specify what  
8 behavior I have shown that the PIC has deemed it "suspicious."  
9

10 9. Ms. Hall also claims that on April 27, 2021, the PIC told her that 10 pills  
11 of hydrocodone/acetaminophen were missing. As I noted above, I did not  
12 work on April 27. I worked on April 30.

13 10. I did not take 10 pills of hydrocodone/acetaminophen.

14 11. Ms. Hall alleges that "the pharmacy supervisor" had a conversation  
15 with me on May 1, 2021, and he thought the conversation was "strange"  
16 and that I was nervous and contradicting myself. The fact is that Mr. Wang,  
17 the pharmacy supervisor, asked me the reason for my delay to work and I  
18 told him that I got lost because it was my first time in this area and Google  
19 map was not helpful. I also informed him that I called the store manager  
20 that I am running late. There was nothing "strange" about our  
21 conversation, nor was I nervous or contradicting myself.  
22

23 12. On May 4, 2021 around 7:30 pm., when I had to give the store manager  
24 the key lock (where I have to keep the Pharmacy's key inside), I  
25



1 forget the key lock inside the pharmacy, so I went back to the pharmacy  
2 (and that after I locked the pharmacy in the first time and put the alarm on  
3 and after I did some grocery shopping inside the store), so I opened the  
4 pharmacy's door and turned off the alarm and took the keylock and then  
5 turned the alarm on again, the whole process took about less than 3  
6 minutes and Raley's can check with the security company who are in  
7 charge with the alarm system. I didn't take or try to take anything except  
8 the keylock. After I locked the pharmacy, I did put the key inside the  
9 keylock and gave it the store supervisor that so she can put it in the store's  
10 safety box, which is located at the front right before you leave the store.

11 13. Also, in the morning of May 4, 2021, the camera showed that I went to  
12 my purse, I did indeed to grab my medication (ibuprofen) for my hip pain.

13 14. On May 3, 2021, when Mr. Dragwood, store supervisor, called me to the  
14 manager's office and in the presence of another supervisor told me that the  
15 other pharmacist working that day complained about my alleged slow pace  
16 ( indeed, it was my 7th day with Raley's and she was working for Relay's  
17 20+ years) and ordered me to be faster, that date @ store 103, under the  
18 eyes of the other pharmacist and 2 technicians and under the camera's  
19 recording, I went back to the pharmacy while extremely upset and  
20 humiliated due store supervisor's unfair criticism of me, I opened the store  
21 use cabinet of paper plates, markers and alcohol swabs, and put them in  
22 Raley's plastic bag hoping that will withdraw HR attention so they will come  
23 down to the pharmacy and hear my statement  
24  
25

1 about the unfair way that supervisor treated me.

2 15. On May 5, 2021, Asset protection Joseph and an HR personnel came  
3 and met me, when I told them what happened as mentioned above. Asset  
4 protection personnel ask me to pay \$25.00 as a cost for those stuffs. I had  
5 no choice but doing what I did so I draw asset protection and HR attention,  
6 so they hear from me about how the humiliating way the store supervisor  
7 treated me. There were 2nd pharmacist, two technicians, and the camera  
8 records.  
9

10 16. On May 6, 2021, I was feeling the symptoms of high blood pressure  
11 and I did not have my blood pressure medication with me. Due to this  
12 emergency circumstance and to prevent risk of substantial bodily harm, I  
13 took just one tablet of Amlodipine 10mg. My rising blood pressure affected  
14 my mental capacity while I was at work. Therefore, I was not thinking  
15 logically when I took the medication. Due to my mental condition, at the  
16 time, I did not realize I took "acetaminophen," which is an OTC  
17 medication.  
18

19 17. I had an accident at home on May 15, 2021, in which I broke my back.

20 18. I had a surgery in the form of laminectomy and fusion at T6-T8 levels  
21 on May 17, 2021.

22 19. At the time Ms. Segedy contacted me to sign a statement she had  
23 prepared, I was on the following medications: Tramadol, Ambien, and  
24 Oxycodone. Further, due to the pain, I was bedridden most of the time. I  
25

1 informed Ms. Segedy of these facts.

2       20. At no time did Ms. Segedy, the Board, or Raley's informed me of  
3 my rights to see an attorney, or that the statement Ms. Segedy had  
4 prepared can be used against me. I was in pain. I was bedridden. I was  
5 on medication. I was under pressure because Ms. Segedy told me that if I  
6 do not sign the statement, my pharmacy license will be immediately  
7 suspended.  
8

9       21. I have been a pharmacist for approximately 24 years and never had any  
10 disciplinary proceeding against me in Nevada or California before this  
11 proceeding.

12       22. I admit that I have made errors in my judgment in this case. However,  
13 my errors were not intentional, nor were they for any pecuniary gain.

14       23. If the Board is inclined to impose sanctions against me, I ask the Board  
15 to consider that I am disabled due to my surgery, have not worked for  
16 months, and according to my doctor's recommendation, I will not be able  
17 to work in any forceable future. I am in pain and tremendous stress.

18 I declare under penalty of perjury that the above statements are true and  
19 correct.  
20

21 ///

1 Dated this 6<sup>th</sup> day of October, 2021.

2  
3 /S/ Ghayda Alrass<sup>1</sup>  
4 Ghayda Alrass  
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19

20 \_\_\_\_\_  
21 <sup>1</sup> Due to technical issues with a scanner, I was not able to provide my  
22 attorney with a hand-signed Declaration. However, I will be available at the  
23 October 13 hearing, in case there is any question regarding the validity of  
24 my e-signature.  
25



May 11, 2021

To Whom It May Concern,

On 4/26/2021, the PIC at Raley's #110 (PH 02452) at 2389 Wingfield Hills Rd. in Sparks reported a shortage of 52 tablets of diazepam 10mg. The PIC stated a float pharmacist Ghayda Alrass (NV 13706, CA 49210) worked on 4/22/2021 and exhibited suspicious behavior.

On 4/27/2021, the PIC at Raley's #110 stated her hydrocodone/acetaminophen count was off by 10 tablets. She stated the bottle was back counted and matched to the computer system by the technician. The float RPH (Ghayda Alrass) put the bottle to the side of the counter instead of putting it away in the CII safe. When the PIC went to use the drug on 4/27/2021, it was short 10 tablets.

These two drugs were reported to the NV Board of Pharmacy on 5/7/2021.

Unfortunately, this location does not have good camera coverage where the incidents would have taken place, so we were not able to get evidence from the cameras.

On 5/1/2021, when the float RPH was working again, the pharmacy supervisor called her and talked to her about other behaviors and issues she was having. He stated the conversation was very strange. She was very nervous, and she kept contradicting herself.

Ms. Alrass worked from 5/1/2021-5/8/2021 at Raley's #103 (PH 00445) at 1441 Mayberry Dr. in Reno. On 5/6/2021, after reviewing video during a lunch break, Asset Protection was able to capture Ms. Alrass taking a full bottle of an unidentified drug off the pharmacy stock shelf. She opened the cap of the bottle and tore off the seal. She then proceeded to put the contents of the bottle in an amber vial. She took a tablet out of the bottle and put it in her mouth and drank from a soda can. She then placed the amber vial in her purse that was sitting on the floor in the pharmacy.

She then took another full bottle off the pharmacy stock shelf. She took off the cap and tore the seal off the bottle. She put the contents into an amber vial and placed the bottle into her purse on the floor.

On 5/7/2021, Ms. Alrass was interviewed by Asset Protection and Human Resources regarding her actions caught on video. She admitted to taking OTC acetaminophen and pens. When the investigator explained she was caught taking two bottles off the shelves, she stated "I don't remember that" or "it wasn't me."

This employee was placed on suspension pending investigation.

On 5/9/2021, a full controlled substance inventory was conducted. It was discovered one full bottle of diazepam 10mg #100 was missing from the shelf. The PIC will report this loss.

If you have any questions, please feel free to call.  
Video and the Case Narrative report are available upon request

Jennifer Hall  
Raley's Pharmacy Supervisor  
916-296-0634  
Jhall125@raleys.com

**Kristopher Mangosing**

---

**From:** Shirley Hunting  
**Sent:** Tuesday, May 18, 2021 2:06 PM  
**To:** Kristopher Mangosing  
**Subject:** Fw: Diversion of Controlled Substances from Float Pharmacist  
**Attachments:** Ghayda Alrass 5.2021.docx

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Shirley Hunting  
Board Coordinator  
Phone: 775-850-1440  
Fax: 775-850-1448

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**From:** Pharmacy Board  
**Sent:** Thursday, May 13, 2021 3:32 PM  
**To:** Shirley Hunting  
**Subject:** Fw: Diversion of Controlled Substances from Float Pharmacist

---

**From:** Jennifer Hall <jhall125@raleys.com>  
**Sent:** Wednesday, May 12, 2021 12:46 PM  
**To:** Pharmacy Board  
**Cc:** Cindy Fong; Rajdeep Bhanver; Quan Tran  
**Subject:** Diversion of Controlled Substances from Float Pharmacist

I would like to report diversion of medication from one of our Raley's locations by a floating pharmacist.  
I have attached a letter with the timeline of events.  
Please contact me if you need more information.

Thank you

**Jennifer Hall**  
Pharmacy Supervisor  
O 916-373-6074 C 916-296-0634  
Raleys.com

**Raley's**

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**Weekly Schedule**  
**02/01/2021 - 02/07/2021**  
**Filters:Colleague**

Group by:None

**105 (BU)**

Colleague Name	Mon 02/01/2021	Tue 02/02/2021	Wed 02/03/2021	Thu 02/04/2021	Fri 02/05/2021	Sat 02/06/2021	Sun 02/07/2021	Sub Total Shifts	Sub Total Hours	Total Net Hours
Alrass, Ghayda				(124) Pharmacist 11:00 AM-02:00 PM				0.00	0.00	3.00
Total Shifts	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Total Hours	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	

**Weekly Schedule**  
**02/08/2021 - 02/14/2021**  
**Filters:Colleague**

Group by:None

**105 (BU)**

Colleague Name	Mon 02/08/2021	Tue 02/09/2021	Wed 02/10/2021	Thu 02/11/2021	Fri 02/12/2021	Sat 02/13/2021	Sun 02/14/2021	Sub Total Shifts	Sub Total Hours	Total Net Hours
Alrass, Ghayda				(103) Pharmacist 11:00 AM-07:00 PM Meal 03:00 PM-03:30 PM	(103) Pharmacist 10:00 AM-05:00 PM Meal 01:30 PM-02:00 PM			0.00	0.00	14.00
Total Shifts	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Total Hours	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	

**Exhibit B**

21 N.E. Absence Time Sheet ✓



## 105 (BU)

Group by:None

[illegible]

## 105 (BU)

Group by:None

[illegible]



**Weekly Schedule**  
**03/15/2021 - 03/21/2021**  
 Filters:Colleague  
 Group by:None

**105 (BU)**

Mon	Tue	Wed	Thu	Fri	Sat	Sun	
03/15/2021	03/16/2021	03/17/2021	03/18/2021	03/19/2021	03/20/2021	03/21/2021	
	Mon	Tue	Wed	Thu	Fri	Sat	Sun
	03/15/2021	03/16/2021	03/17/2021	03/18/2021	03/19/2021	03/20/2021	03/21/2021
Salaried Hours	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Non-Salaried Hours	0.00	0.00	0.00	0.00	0.00	0.00	0.00
							<b>Total</b>
							0.00

**Weekly Schedule**  
**03/22/2021 - 03/28/2021**  
 Filters:Colleague  
 Group by:None

**105 (BU)**

Mon	Tue	Wed	Thu	Fri	Sat	Sun	
03/22/2021	03/23/2021	03/24/2021	03/25/2021	03/26/2021	03/27/2021	03/28/2021	
	Mon	Tue	Wed	Thu	Fri	Sat	Sun
	03/22/2021	03/23/2021	03/24/2021	03/25/2021	03/26/2021	03/27/2021	03/28/2021
Salaried Hours	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Non-Salaried Hours	0.00	0.00	0.00	0.00	0.00	0.00	0.00
							<b>Total</b>
							0.00



**Weekly Schedule**  
**03/29/2021 - 04/04/2021**  
**Filters:Colleague**

**Group by:None**

**105 (BU)**

Mon	Tue	Wed	Thu	Fri	Sat	Sun	Total
03/29/2021	03/30/2021	03/31/2021	04/01/2021	04/02/2021	04/03/2021	04/04/2021	
Salaried Hours	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Non-Salaried Hours	0.00	0.00	0.00	0.00	0.00	0.00	0.00

**Weekly Schedule**  
**04/05/2021 - 04/11/2021**  
**Filters:Colleague**

**Group by:None**

**105 (BU)**

Mon	Tue	Wed	Thu	Fri	Sat	Sun	Total
04/05/2021	04/06/2021	04/07/2021	04/08/2021	04/09/2021	04/10/2021	04/11/2021	
Salaried Hours	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Non-Salaried Hours	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Weekly Schedule  
04/12/2021 - 04/18/2021

105 (BU)

Filters:Colleague  
Group by:None

Colleague Name	Mon 04/12/2021	Tue 04/13/2021	Wed 04/14/2021	Thu 04/15/2021	Fri 04/16/2021	Sat 04/17/2021	Sun 04/18/2021	Sub Total	Sub Total	Sub Total
Alrass, Ghayda								0.00	0.00	0.00
Total Shifts	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Hours	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Salaried Hours	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Non-Salaried Hours	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Weekly Schedule  
04/19/2021 - 04/25/2021

105 (BU)

Filters:Colleague  
Group by:None

Colleague Name	Mon 04/19/2021	Tue 04/20/2021	Wed 04/21/2021	Thu 04/22/2021	Fri 04/23/2021	Sat 04/24/2021	Sun 04/25/2021	Sub Total	Sub Total	Sub Total
Alrass, Ghayda	(134) Pharmacist 02:30 PM-07:00 PM			(110) Pharmacist 10:00 AM-06:30 PM Meal 01:30 PM-02:00 PM				0.00	0.00	12.50
Total Shifts	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Hours	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Salaried Hours	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Non-Salaried Hours	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00



Weekly Schedule  
04/26/2021 - 05/02/2021  
Filters:Colleague  
Group by:None

105 (BU)

Colleague Name	Mon 04/26/2021	Tue 04/27/2021	Wed 04/28/2021	Thu 04/29/2021	Fri 04/30/2021	Sat 05/01/2021	Sun 05/02/2021	Sub Total Shifts	Sub Total Hours	Total Net Hours
Alrass, Ghayda					Pharmacist 10:00 AM-07:30 PM Meal 01:30 PM-02:00 PM	(103) Pharmacist 09:00 AM-05:30 PM Meal 01:30 PM-02:00 PM		1.00	9.00	17.00
Total Shifts	0.00	0.00	0.00	0.00	1.00	0.00	0.00	1.00	9.00	
Total Hours	0.00	0.00	0.00	0.00	9.00	0.00	0.00	9.00	9.00	
Salaried Hours	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Non-Salaried Hours	0.00	0.00	0.00	0.00	9.00	0.00	0.00	9.00	9.00	9.00

Weekly Schedule  
05/03/2021 - 05/09/2021  
Filters:Colleague  
Group by:None

105 (BU)

Colleague Name	Mon 05/03/2021	Tue 05/04/2021	Wed 05/05/2021	Thu 05/06/2021	Fri 05/07/2021	Sat 05/08/2021	Sun 05/09/2021	Sub Total Shifts	Sub Total Hours	Total Net Hours
Alrass, Ghayda	(103) Pharmacist 10:00 AM-06:30 PM Meal 01:30 PM-02:00 PM	(103) Pharmacist 10:00 AM-06:30 PM Meal 01:30 PM-02:00 PM	(103) Pharmacist 10:00 AM-07:00 PM Meal 01:30 PM-02:00 PM	(103) Pharmacist 10:00 AM-07:00 PM Meal 01:30 PM-02:00 PM	(103) Pharmacist 09:00 AM-05:30 PM Meal 01:30 PM-02:00 PM	(103) Pharmacist 09:00 AM-05:30 PM Meal 01:30 PM-02:00 PM		0.00	0.00	41.00
Total Shifts	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Total Hours	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Salaried Hours	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Non-Salaried Hours	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

## STATEMENT FORM

COMPANY <u>Raley's</u>	DATE MONTH/DAY/YEAR <u>5/7/21</u>	TIME HOURS <u>12:00 PM</u>
LOCATION # <u>103</u>		
NAME <u>CHAYDA ALRASS</u>		
ADDRESS <u>Lacina Dr. / Reno 89521</u>		
* ( <u>949</u> )		

WANT TO MAKE THE FOLLOWING STATEMENT:

On 5/3/21 assistant manager "Dragwood" took me in the meeting office after lunch (2:00 PM) & said "since you opened @ 10<sup>am</sup> I received (15) complaints from people on the phone who were very upset because I was rude & unhelpful." So I asked if there were 14 people in the pharmacy (2 pharmacist & 2 technician) so did they say I was in specific who was rude on the phone, or he said "YES" ~~off~~ I don't recall any issue on the phone, plus how they knew it's me, I do have an accent but the other pharmacist have the same accent (We both speak French). So, his accusation was completely not true & very insulting.

Then he said that the other pharmacist said I fill "2" Prescription Rx per hour !! First how she knew those exact data, & second she was with Raley's "20" years & today was about the "eleven day" with the company. I asked him to check the computer system because those numbers can be easily found, he said he can't because he is busy.

At this moment I was very very angry, insulted, & I felt ~~that~~ I'll have a "nervous breakdown" It's so unfair the way he treated me.

\* ( ) INITIALS OF PERSON MAKING STATEMENT

### AFFIDAVIT

I, \_\_\_\_\_ HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE ONE AND ENDS ON PAGE \_\_\_\_\_. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THIS STATEMENT IS TRUE. I HAVE INITIALED ALL

CORRECTIONS AND HAVE INITIALED THE TOP AND BOTTOM OF EACH PAGE CONTAINING THIS STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE OR UNLAWFUL INDUCEMENT.

WITNESS: \_\_\_\_\_

SIGNED: \_\_\_\_\_

SIGNATURE OF PERSON

DATE: \_\_\_\_\_

PAGE 1 OF 2 \* ( GA ) INITIALS OF PERSON MAKING STATEMENT

Exhibit C

✓ 51-0115 Arlene Alrass Statement Alrass0018



## STATEMENT CONTINUATION FORM

COMPANY	Raley's	DATE MONTH DAY YEAR	5/7/21	TIME HOURS	12:00 PM
LOCATION	# 103				
NAME	CHAYDA ALRASS.				
ADDRESS					

1949,

I went back to the pharmacy full with anger & can't concentrate at all. I got hired on 1/28/21, got 2 1/2 day of modules on the computer, less than 2 days of training with a technician from Sacramento.

Then never scheduled for work for about 3 months, then asked to do some shift end of April & May. So I worked for the company about 12 days only. Then I received a phone call from "Rag" a district manager & she said "your number are very bad you should be faster" I explained it to my day 12 with the company & I really didn't get a training!

I was full of anger & I'm close to have nerve breakdown, I did 2 wrong things. I took about a handful of plain Acetaminophen (Tylenol generic) & I also took some office supply "Pen, Post-it & folder". I do admit it's a mistake, completely unacceptable but I thought that will make me less upset & I knew that the camera will see that so may be they will feel how angry & upset. I have those at home I can bring them back & I can pay wherever Tylenol cost (~\$5.00).

On Wednesday 5/5/21 "Rag" called me 3 times & kept saying that my Rx number are bad. I said I'm doing my best especially for somebody being only for few days with the company. The camera can show what I was doing, & not even one complaint from a customer. After her 3rd call I really felt I'm breaking down & I need medical attention. Anyway I finished my shift but I never been feeling that breaking down in my life. The company wasn't fair.

to me, didn't give me enough training & the easiest word is I was

PAGE 2 OF 2 : (CA) INITIALS OF PERSON MAKING STATEMENT

harrassed because of that Rx volume (Data speed). I can't do anything except going to the closest medical facility because I went through a lot & nobody can

to the West - 121

Thick

CARIDA GLASS

8/4/21

1.00 on 1.00 = 0.00 up to \$2.00



Per Jennifer:

Written by Joseph Scurry  
on 5/8/2021 Asset Protection.

Summary:

Raley's Floating Pharmacist Ghayda Alrass (710143), has been stealing company supplies, as well as, pharmaceuticals over the last two weeks. Alrass admitted to stealing pens, paper bowls, rubber bands and other office supplies. In addition, Alrass admitted to stealing and consuming acetaminophen while working at Store # 103, Mayberry Dr., Reno NV. In her statement, she admitted to taking these items out of anger and for the way she was treated. She completed a written statement and signed a promissory note. The total loss to the store was \$25.

Investigation:

On Tuesday, May 4<sup>th</sup>, I was contacted by Raj Bhanver, Pharmacy Supervisor, regarding Alrass. Bhanver stated that Alrass was not in the pharmacy from 4pm to 5pm and asked me to review CCTV. I conducted video review of the times provided by Bhanver and found that during this time Alrass was taking items from a supply cabinet and placing them into a shopping bag. The shopping bag was empty when she started, she placed a stack of paper bowls, a stack of post-it notes, pens, a new package of sharpies and rubber bands into the bag. Alrass took this shopping bag with her when she left for the day at 6pm. I reviewed other video from the same day, May 4<sup>th</sup>, and found that while the pharmacy was closed for lunch Alrass took a bottle of pills from off the shelf, opened shelf, and poured the contents into an amber pill bottle. She then took one of the pills out of the vial and consumed it. Alrass then placed the bottle into her bag. She took two bottles in the video, please include that as well. At this point, the decision was made to interview.

On Friday, May 7<sup>th</sup>, I interviewed Alrass in the training room at Store #103. Michelle Schroeder, HRBP, was present as a witness. During the interview, Alrass stated she felt like she was being treated unfairly for her work performance. When asked to explain, she stated, "I have only had three days of training and they yell at me for only getting 2 scripts filled in an hour, they yell at me for customers complaining and I haven't been trained." I asked if she had ever taken Raley's property without permission? She replied, "I cleaned out the cabinet and got rid of the pens that didn't work." I asked why she would have taken a new package of pens? She replied, "I was mad at the way I was treated and felt it was a way to get back, so I took office supplies." I asked Alrass if she meant "stole" when she said "took?"; Alrass replied, "Yes it was wrong I stole these items". I asked what types of pharmaceuticals she had consumed or stolen? She replied, "Only acetaminophen." I asked how much? Alrass responded, "A hand full maybe \$4-\$5 worth." I advised Alrass that I reviewed video of the incident and that acetaminophen was not located in the region where she grabbed the bottle from. She replied, "That's what I took your video is wrong, I have 25 years on the line, I only took acetaminophen." At this point I concluded my interview and Alrass voluntarily completed a written statement. After completing her written statement Alrass voluntarily signed a promissory note for \$25 to pay Raley's back for her wrong doing.

Alrass Statement in Summary:

"I did two wrong things. I took about a handful of acetaminophens and I also took some office supplies- pens post-it's. I do admit it's a mistake and unacceptable, but I thought that will make me less upset. I knew the camera will see it so maybe they will feel how angry I was."

terminated by Shawn Williams  
@ her home store, #105, per Jennifer Hall

## Warning Notice

Team Member: 710143 Ghayda Alrass  
Job Code: 9405 Relief Pharmacist  
Incident Date: 2021-05-08  
Hire Date: 2021-01-28  
Action Taken

Regular/Temporary T  
Full/Part Time: P  
Incident # 1 (1 - unless more than one per day)  
Union Code 77R NonUnion NV Pharmacists

☒ Documented Verbal ☒ Suspension - 3 days ☒ Suspension - other ☒ Discharge  
☒ Written Warning ☒ Suspension - 5 days ☒ Demotion

Explain the unsatisfactory performance, and/or undependability, and/or improper conduct:

Suspension Pending Investigation as per A/P

Corrective Action to be taken by team member:

Suspension

Anticipated discipline for the same/similar future incident:

An additional incident of the same or similar issue may result in further discipline up to and including discharge

Submitted By:  
Witnessed By:  
Team Member:

Ghayda Alrass

Submitted at:  
Submitted at:  
Submitted at:

Exhibit

D

✓ 01-01-21 Suspension Notice



# Raley's Store #110

2389 Wingfield Hills Rd.  
Sparks, NV

Date of Theft: 4/22/2021

Loss: 52 Tablet of Diazepam 10mg  
10 tablets of Hydrocodone/Acet.

Exhibit E

## Monica Segedy

---

**From:** Jennifer Hall <jhall125@raleys.com>  
**Sent:** Wednesday, June 02, 2021 4:21 PM  
**To:** Monica Segedy  
**Subject:** Ghayda Alrass

Hi Monica,  
Thank you for talking with me today.

*Per Jennifer -  
Date is 4/22/2021*

Here is the video camera of Ghayda coming and going from 110. It looks like she locked up the pharmacy at 6:49pm.

PTL entered the store at 10:49:05am.

The Tech's left at 6:34:23pm.



Locked up the Pharmacy at 6:49:34pm.



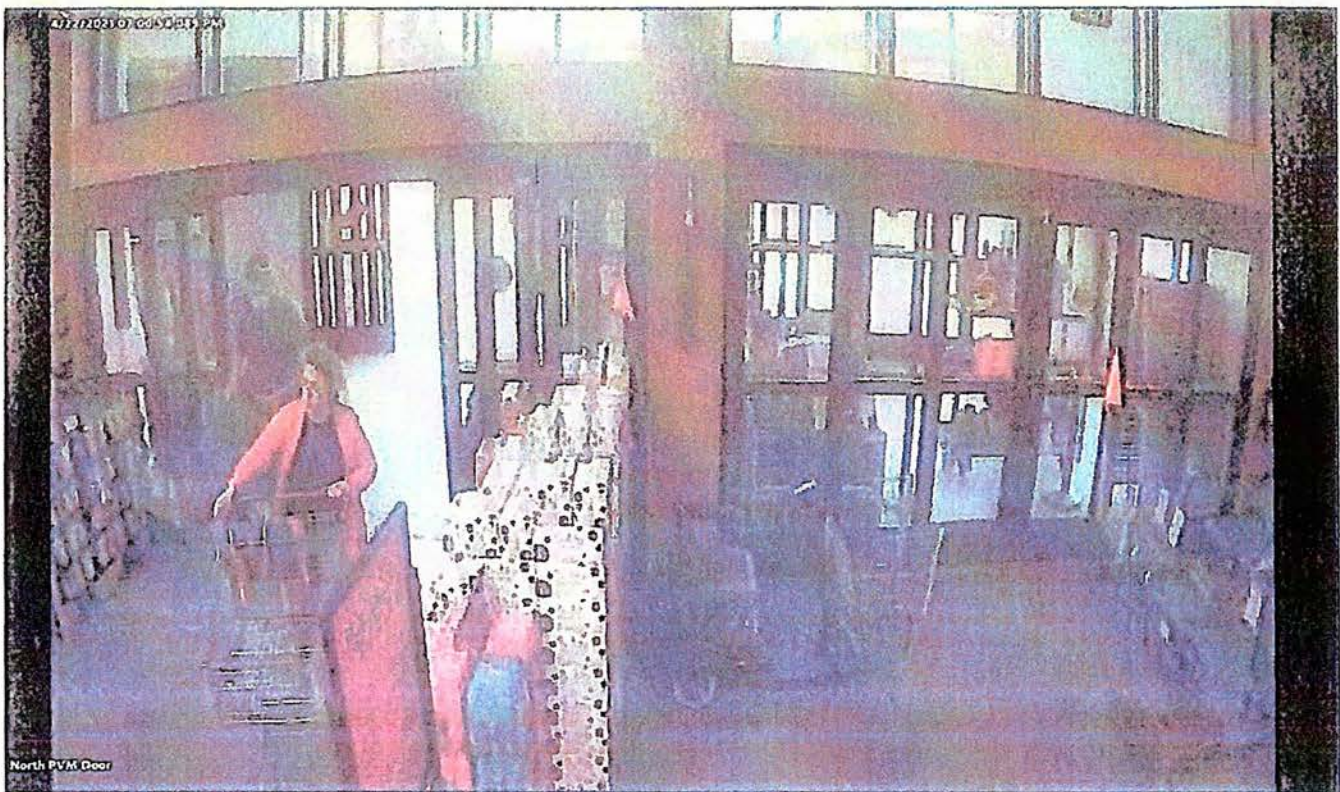


Turning in key at 6:51:38pm.



Came back into the store to do shopping at 7:00:54pm.





Jennifer Hall  
Pharmacy Supervisor  
O 916-373-6074 C 916-296-0634  
Raleys.com

**Raley's**

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## NEVADA STATE BOARD OF PHARMACY

985 Damonte Ranch Parkway, Suite 206 - Reno, NV 89521 -  
(775) 850-1440

## Licensee Record of ANY Controlled Substance Loss or Theft

NRS 453.568 Report of loss or theft of controlled substance. All loss or theft of controlled substances must be reported on forms provided by the Division to the Board and Division within 10 days after the date of discovery of the theft or loss.

You may fax this completed form to 775-850-1444, mail to 985 Damonte Ranch Parkway, Ste. 206, Reno, Nevada 89521 or email to [pharmacy@pharmacy.nv.gov](mailto:pharmacy@pharmacy.nv.gov).

**Licensee Information**  
Name of Licensee: Raley's Pharmacy #110 Phone Number: 775-628-7720  
Address: 2389 Wingfield Hills Rd.  
Pharmacy License Number: Ph02452 DEA Registration Number: FR1107689

**Loss Information**  
Date of Loss or Theft: 04-22-2021  
Has the theft or loss been reported to Police? (Check One) ☐ Yes ☒ No  
Name of Police Department (if applicable): \_\_\_\_\_  
Phone number of Police Department (if applicable): \_\_\_\_\_  
Number of losses or thefts the licensee has reported within the past 12 months: 0  
Was the controlled substance lost or stolen? (Check One) ☐ Lost ☒ Stolen  
Type of Loss? (Check One) ☐ Robbery ☒ Employee Theft ☐ Customer Theft ☐ Other  
If Other please explain: Suspected Theft by floating pharmacist  
Was a DEA-106 form completed for the loss or theft? (Check One) ☒ Yes ☐ No  
What security measures have been taken to prevent future loss or theft?: Requested security cameras from our corporate office. Also, corporate is monitoring other locations this employee worked at.

Controlled Substance	NDC Number	Strength	Form	Quantity
Hydro/APAP	00406-0125-05	10/325mg	Tab	10
Diazepam	00172-3927-70	10mg	Tab	52

I certify that the information contained in this document is correct and accurate to the best of my knowledge.

Pharmacist/PIC Name: Christine Carr

Pharmacist/PIC Signature: Christine Carr Date Signed: 05-07-2021

21-065 Hydro + Diazepam Loss Report ✓

# Raley's Store #103

1441 Mayberry Dr.  
Reno, NV

Date of Theft: 5/03/2021

Loss: 1 Bottle (100 tabs) Diazepam 10mg  
61 tablets of Hydromorphone HCL 2mg

Exhibit F



## Report of Theft or Loss of Controlled Substances

OMB No 1117-0001 (Exp. Date 7/31/2023)

U.S. Department of Justice  
Drug Enforcement Administration  
Diversion Control Division

Type of Report: (check one box only) ☒ New Report ☐ Amendment Key (prior report dated): 8QWXKN4MIOMK

1. DEA Registration Number: AR7269536  
Name of Business: RALEY'S PHARMACY #103  
Address: 1441 MAYBERRY DRIVE  
City: RENO State: NV ZIP Code: 89509  
Point of Contact: LAURA CARLIN WARMKESSEL  
Email Address: LWARMKESSEL@RALEYS.COM Phone No.: 7757863655

Date of the Theft or Loss (or first discovery of theft or loss) June 07, 2021 Number of Thefts and Losses in the past 24 months: 2

Principal Business of Registrant: CHAIN PHARMACY

2. Type of theft or loss: EMPLOYEE THEFT (OR SUSPECTED):

3. Loss in Transit. (\*Fill out this section only if there was a loss in transit, or hijacking of transport vehicle.)  
Name of Common Carrier: \_\_\_\_\_  
Telephone Number of Common Carrier: \_\_\_\_\_ Package Tracking Number: \_\_\_\_\_  
Have there been losses in transit from this same carrier in the past? ☐ No ☐ Yes (If yes, how many, excluding this theft or loss?): \_\_\_\_\_  
Was the package received and accepted by the consignee? ☐ No ☐ Yes (If yes, the consignee is responsible for reporting the theft or loss.)  
If the package was accepted by the consignee, did it appear to be tampered with? ☐ No ☐ Yes  
Name of Consignee / Supplier: \_\_\_\_\_  
Enter the Name of Consignee (if reported by the supplier), or the Name of Supplier (if the package was accepted by the consignee).  
If the consignee does not have a DEA Registration Number, e.g. if this was a shipment to a patient, or a nursing home emergency kit, enter "Patient" or "Nursing Home Kit."  
DEA Registration Number of Consignee / Supplier: \_\_\_\_\_  
Enter the DEA Registration Number of Consignee (if reported by the supplier), or DEA Registration Number of Supplier, (if the package was accepted by the consignee). If the controlled substances were shipped to a non-registrant, leave blank, unless a registered pharmacy shipped to an emergency kit held on site at a nursing home. In this case, the supplying pharmacy is required to report the theft or loss.

4. If this was a robbery, were any people injured? ☐ No ☐ Yes (If yes, how many?): \_\_\_\_\_ Were any people killed? ☐ No ☐ Yes (If yes, how many?): \_\_\_\_\_

5. Purchase value to Registrant of controlled substances taken?: \$ 41

6. Were any pharmaceuticals or merchandise taken? ☐ No ☒ Yes (Est Value): 41

7. Was theft reported to Police? ☒ No ☐ Yes (If yes, fill out the following information):  
Name of Police Department: \_\_\_\_\_ Police Report number: \_\_\_\_\_  
Name of Responding Officer: \_\_\_\_\_ Phone No.: \_\_\_\_\_

8. Which corrective measure(s) have you taken to prevent a future theft or loss?  
☐ Installed monitoring equipment (e.g. video camera). ☒ Provided security training to staff.  
☐ Increased employee monitoring (e.g. random drug tests). ☐ Requested increased security patrols by Police.  
☐ Installed metal bars or other security on doors or windows. ☐ Hired security guards for premises.  
☒ Secured Controlled Substances within safe. ☒ Terminated employee.  
☐ Other (Please describe on last page).

21-065 Hydromorphone DEA-6 ✓

### Report of Theft or Loss of Controlled Substances

OMB No. 1117-0001 (Exp. Date 7/31/2023)

## LIST OF CONTROLLED SUBSTANCES LOST

[illegible]





9. What identifying marks, symbols, or price codes were on the labels of these containers that would assist in identifying the products?:

HYDROMORPHONE 2MG NDC 00406-3243-01 #61 TABLETS

10. If Official Controlled Substance Order Forms (DEA-222) were stolen, give numbers:

Describe any other corrective measure(s) you have taken to prevent a future theft or loss:

Enter remarks, if required. Description of how theft or loss occurred. Attach a separate sheet, if necessary:

UPON TAKING OVER THIS STORE CONDUCTED CONTROLLED SUBSTANCE COUNT ON 05/09/2021. THEN I INVESTIGATED FURTHER LOOKING FOR THE DRUG TO SEE IF IT WAS RETURNED TO INMAR OR PLACED IN ALTERNATE LOCATION OR DISPENSED TO PATIENT OR ON ANY OTHER FORM OR REPORT OR PLACED SOMEWHERE ELSE IN THE PHARMACY. SPOKE WITH PHARMACIST VIOLAINE HART WHO REPORTS THERE WAS A BOTTLE OF 61 HYDROMORPHONE 2MG BECAUSE SHE FILLED ONE FOR #212 ON 4/29/21. RAN REPORTS AND INVESTIGATED FURTHER BUT COULD NOT FIND WHAT HAPPENED TO THE 61TABS

The foregoing information is correct to the best of my knowledge and belief: By signing my full name in the space below, I hereby certify that the foregoing information furnished on this DEA Form 106 is true and correct, and understand that this constitutes an electronic signature for purposes of this reporting requirement only

Signature: LAURA CARLIN WARMKESSEL

Title: PHARMACY MANAGER

Date Signed: June 08, 2021

#### Privacy Act Information

AUTHORITY: Section 301 of the Controlled Substances Act of 1970 (PL 91-513)

PURPOSE: Reporting of unusual or excessive theft or loss of a Controlled Substance.

ROUTINE USES: The Controlled Substances Act authorizes the production of special reports required for statistical and analytical purposes. Disclosures of information from this system are made to the following categories of users for the purposes stated:

A. Other Federal law enforcement and regulatory agencies for law enforcement and regulatory purposes

B. State and local law enforcement and regulatory agencies for law enforcement and regulatory purposes

EFFECT: Failure to report theft or loss of Controlled Substances may result in penalties under Section 402 and 403 of the Controlled Substances Act.

NOTICE: In accordance with the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this collection of information is 1117-0001. Public reporting burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Freedom of Information: Please prominently identify any confidential business information per 28 CFR 16.8(c) and Exemption 4 of the Freedom of Information Act (FOIA). In the event DEA receives a FOIA request to obtain such information, DEA will give written notice to the registrant to obtain such information. DEA will give written notice to the registrant to allow an opportunity to object prior to the release of information.



Type of Report: (check one box only) <input checked="" type="checkbox"/> New Report <input type="checkbox"/> Amendment Key (prior report dated): 90YIW4V6KSE	
1. DEA Registration Number: AR7269536	
Name of Business: RALEY'S PHARMACY #103	
Address: 1441 MAYBERRY DRIVE	
City: RENO	State: NV ZIP Code: 89509
Point of Contact: LAURA CARLIN WARMKESEL	
Email Address: LWARMKESSEL@RALEYS.COM	Phone No.: 7757863655
Date of the Theft or Loss (or first discovery of theft or loss) May 09, 2021	
Number of Thefts and Losses in the past 24 months: 1	
Principal Business of Registrant: CHAIN PHARMACY	
2. Type of theft or loss: EMPLOYEE THEFT (OR SUSPECTED):	
3. Loss in Transit. (*Fill out this section only if there was a loss in transit, or hijacking of transport vehicle.)	
Name of Common Carrier:	
Telephone Number of Common Carrier:	Package Tracking Number:
Have there been losses in transit from this same carrier in the past? <input type="checkbox"/> No <input type="checkbox"/> Yes (if yes, how many, including this theft or loss?):	Yes (if yes, the consignee is responsible for reporting the theft or loss.)
Was the package received and accepted by the consignee? <input type="checkbox"/> No <input type="checkbox"/> Yes	No <input type="checkbox"/> Yes
If the package was accepted by the consignee, did it appear to be tampered with? <input type="checkbox"/> No <input type="checkbox"/> Yes	
Name of Consignee / Supplier:	
Enter the Name of Consignee (if reported by the supplier), or the Name of Supplier (if the package was accepted by the consignee).	
If the consignee does not have a DEA Registration Number, e.g. if this was a shipment to a patient, or a nursing home emergency kit, enter "Patient" or "Nursing Home Kit."	
DEA Registration Number of Consignee / Supplier:	
Enter the DEA Registration Number of Consignee (if reported by the supplier), or DEA Registration Number of Supplier, (if the package was accepted by the consignee). If the controlled substances were shipped to a non-registrant, leave blank, unless a registered pharmacy shipped to an emergency kit held on site at a nursing home. In this case, the supplying pharmacy is required to report the theft or loss	
4. If this was a robbery, were any people injured? <input type="checkbox"/> No <input type="checkbox"/> Yes (if yes, how many?): Were any people killed? <input type="checkbox"/> No <input type="checkbox"/> Yes (if yes, how many?):	
5. Purchase value to Registrant of controlled substances taken?: \$ 33	
6. Were any pharmaceuticals or merchandise taken? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (Est Value): 33	
7. Was theft reported to Police? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes (if yes, fill out the following information):	
Name of Police Department:	Police Report number:
Name of Responding Officer:	Phone No.:
8. Which corrective measure(s) have you taken to prevent a future theft or loss?	
<input checked="" type="checkbox"/> Installed monitoring equipment (e.g. video camera).	<input checked="" type="checkbox"/> Provided security training to staff.
<input type="checkbox"/> Increased employee monitoring (e.g. random drug tests).	<input type="checkbox"/> Requested increased security patrols by Police.
<input type="checkbox"/> Installed metal bars or other security on doors or windows.	<input type="checkbox"/> Hired security guards for premises.
<input type="checkbox"/> Secured Controlled Substances within safe.	<input type="checkbox"/> Terminated employee.
<input type="checkbox"/> Other (Please describe on last page).	

21-065 Diazepam DEA-6 ✓



## LIST OF CONTROLLED SUBSTANCES LOST

[illegible]





9. What identifying marks, symbols, or price codes were on the labels of these containers that would assist in identifying the products?:

NDC 00172-39-27-60 DIAZEPAM 10MG #100

10. If Official Controlled Substance Order Forms (DEA-222) were stolen, give numbers:

Describe any other corrective measure(s) you have taken to prevent a future theft or loss

Enter remarks, if required. Description of how theft or loss occurred. Attach a separate sheet, if necessary:

SUSPECTED EMPLOYEE THEFT. COUNT WAS MADE AT END OF DAY OF PREVIOUS PHARMACY MANAGER AND BY THE TIME THE NEW MANAGER CAME TO DO THE COUNTS DRUG WAS MISSING

The foregoing information is correct to the best of my knowledge and belief: By signing my full name in the space below, I hereby certify that the foregoing information furnished on this DEA Form 106 is true and correct, and understand that this constitutes an electronic signature for purposes of this reporting requirement only

Signature: LAURA CARLIN WARMKESEL

Title: PHARMACY TEAM LEAD

Date Signed: May 14, 2021

#### Privacy Act Information

**AUTHORITY** Section 301 of the Controlled Substances Act of 1970 (PL 91-513).

**PURPOSE** Reporting of unusual or excessive theft or loss of a Controlled Substance.

**ROUTINE USES** The Controlled Substances Act authorizes the production of special reports required for statistical and analytical purposes. Disclosures of information from this system are made to the following categories of users for the purposes stated:

A. Other Federal law enforcement and regulatory agencies for law enforcement and regulatory purposes

B. State and local law enforcement and regulatory agencies for law enforcement and regulatory purposes

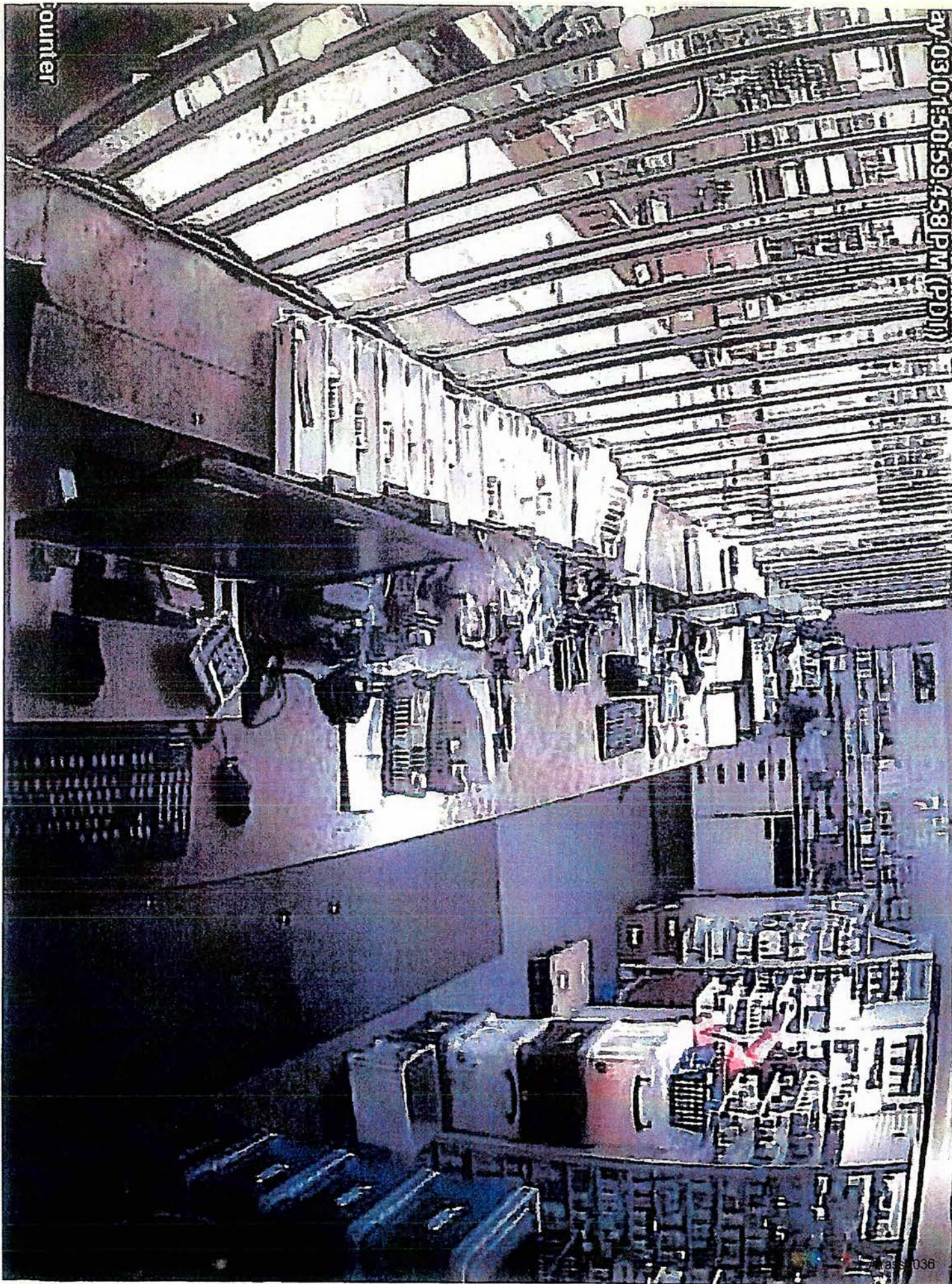
**EFFECT** Failure to report theft or loss of Controlled Substances may result in penalties under Section 402 and 403 of the Controlled Substances Act.

**NOTICE:** In accordance with the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this collection of information is 1117-0001. Public reporting burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

**Freedom of Information:** Please prominently identify any confidential business information per 28 CFR 16.8(c) and Exemption 4 of the Freedom of Information Act (FOIA). In the event DEA receives a FOIA request to obtain such information, DEA will give written notice to the registrant to obtain such information. DEA will give written notice to the registrant to allow an opportunity to object prior to the release of information.

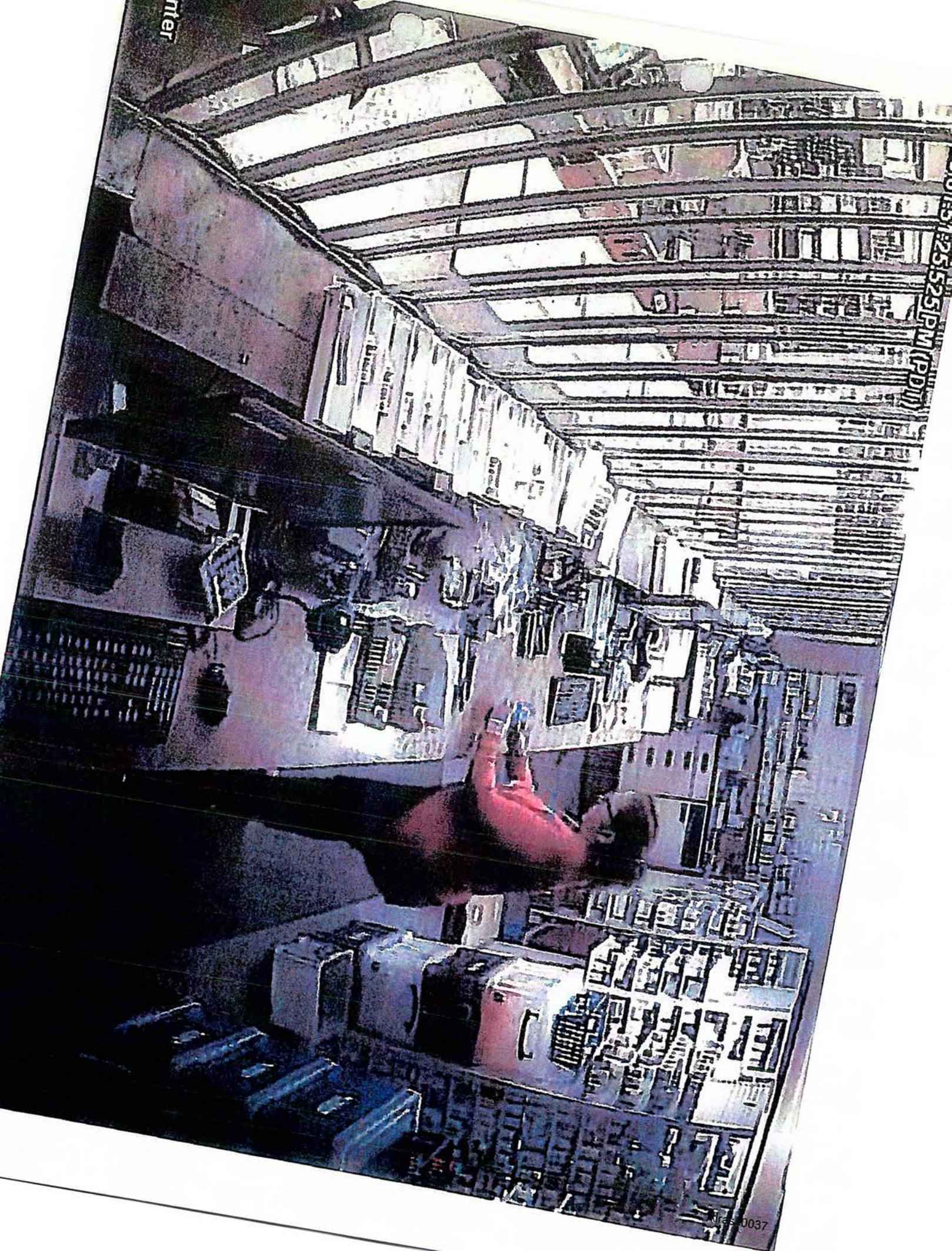


ay-03 01:50:59.458 PM (PDI)



Counter





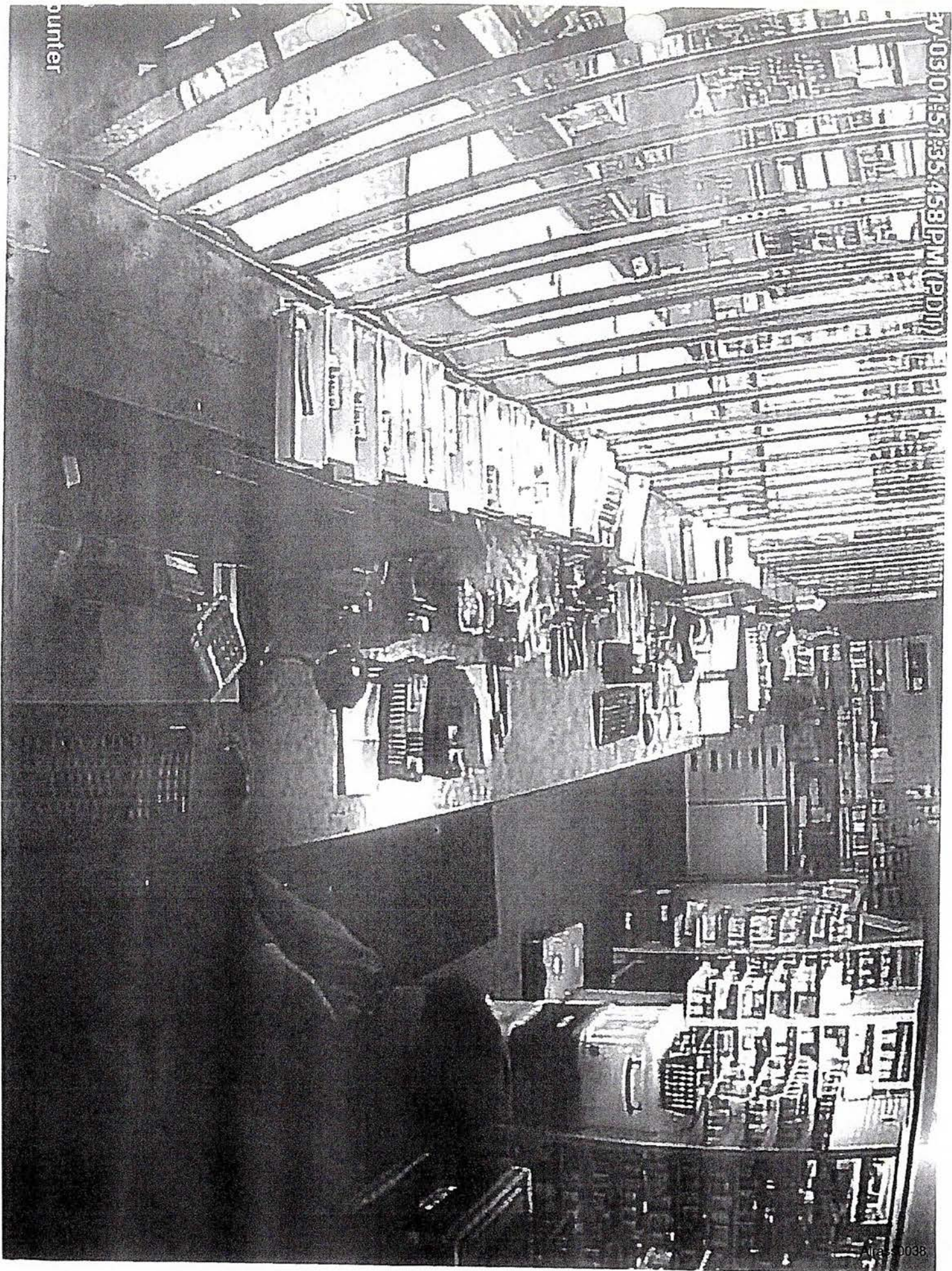
03/12/2015 12:55:25 PM (PDU)

inter



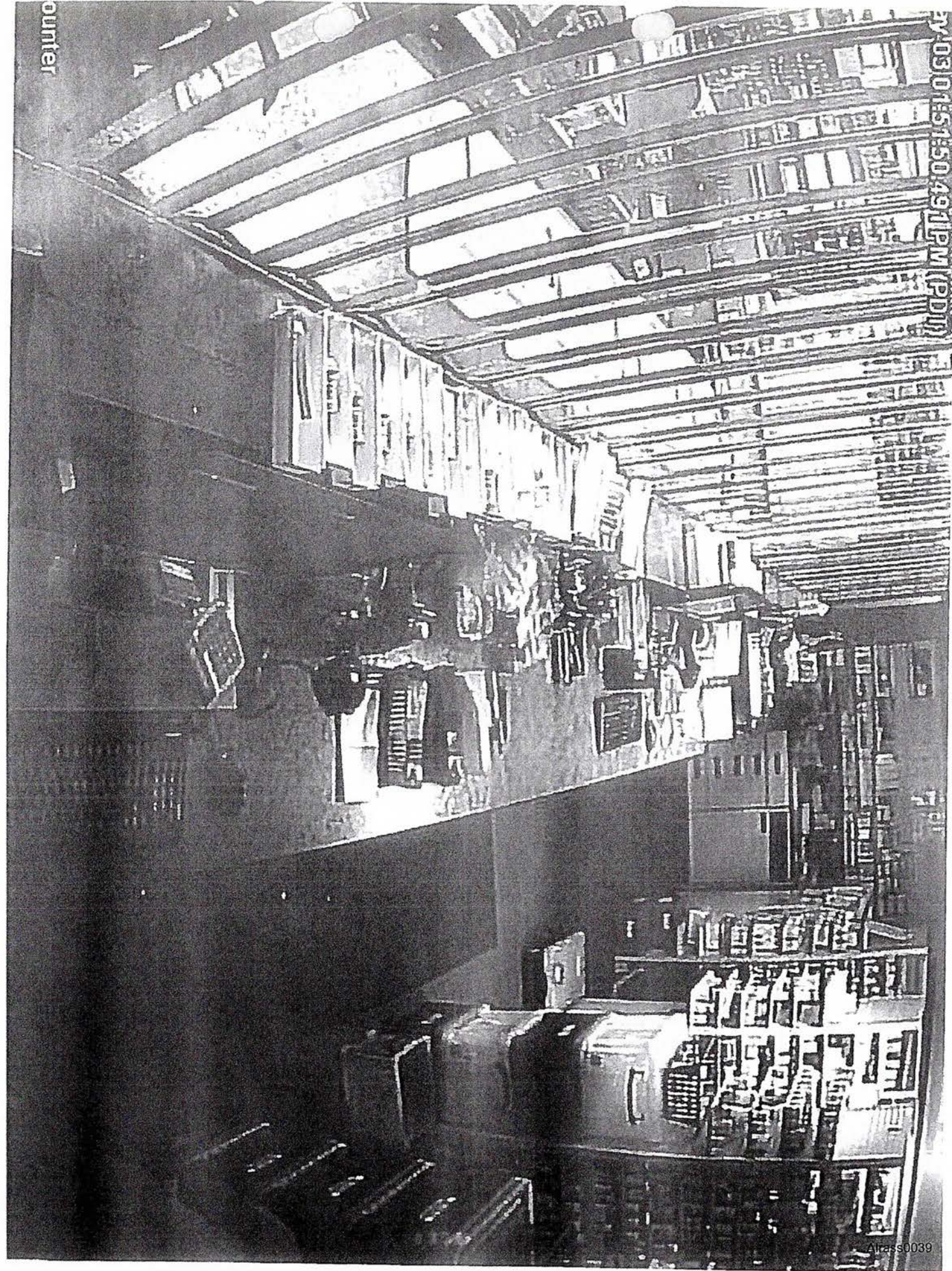
AY 03/01/51 13:54:58 PM (PDI)

counter





2003015150491PM (PDU)



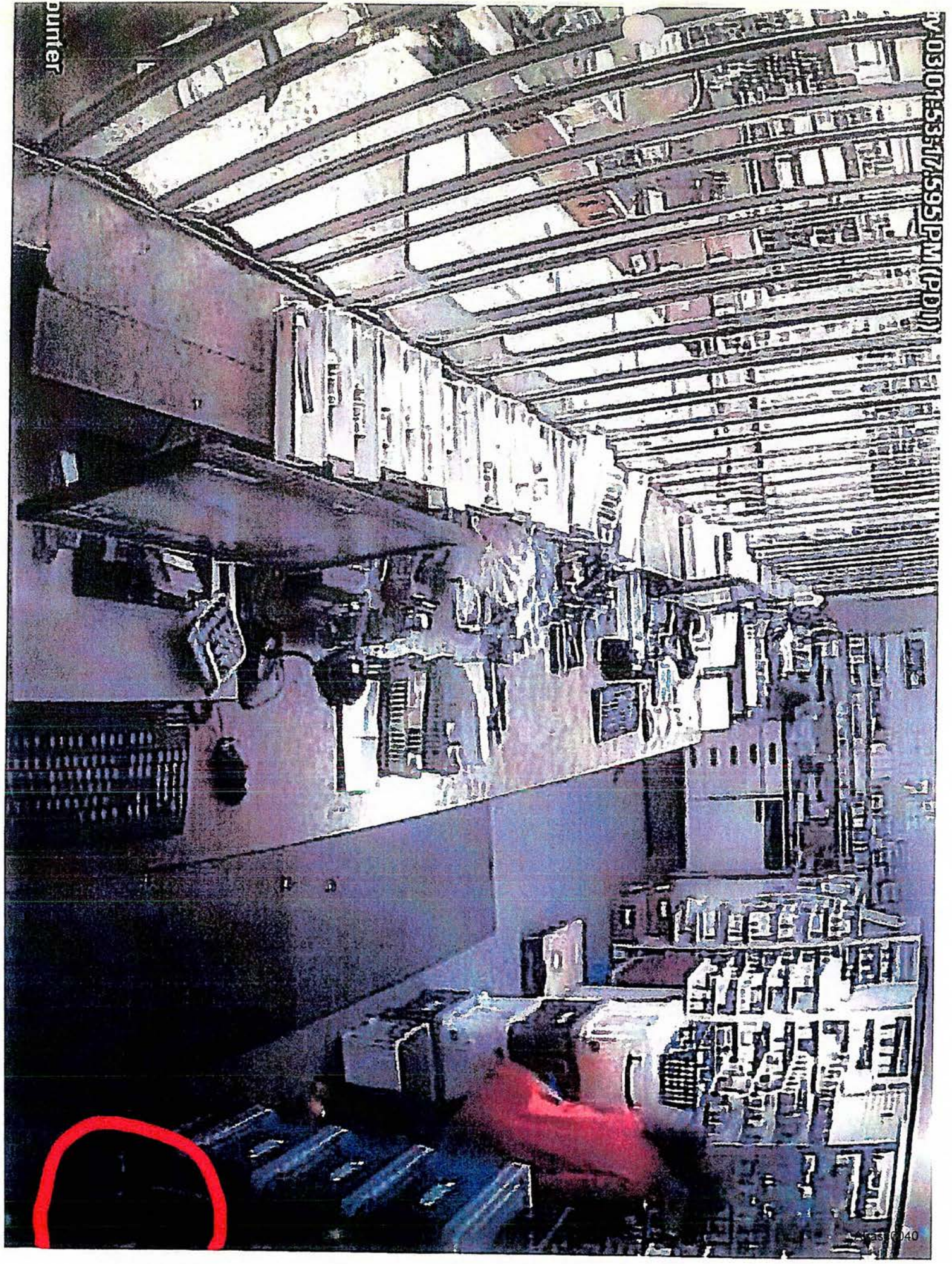
ounter

Alrass0039



NY 0301453174595 PM (P01)

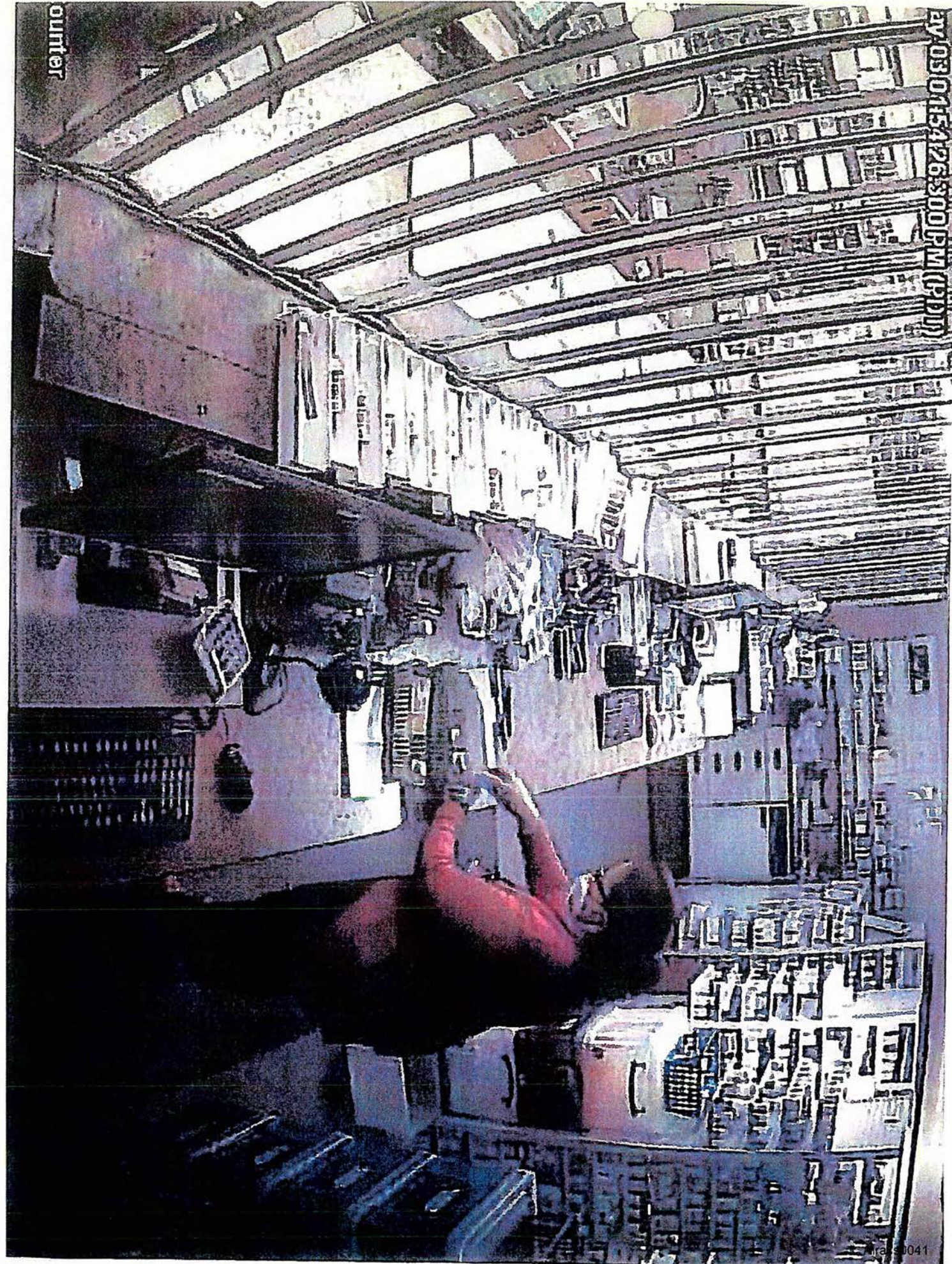
counter





ay 03 01 15 4 26 30 0 PM (PDU)

counter





lay-05 01:54:41.266PM (PDI)

Counter



WIRASS0042



### Statement of Ghayda Alrass

I, Ghayda Alrass, do hereby swear that the following statement of facts, as prepared by investigator Monica S. Segedy of the Nevada State Board of Pharmacy (NBOP) is a true and accurate representation of information I provided on 7/12/2021.

I am licensed and registered Pharmacist the NBOP, license #13706. I have been a pharmacist since 1996 in both California and Nevada. I moved to Nevada around 2009 or 2010. I have not had any discipline against me as a pharmacist since 1996.

In January 2021 I was hired as a Pharmacist for Raley's. In January 2021 I was provided with 2 ½ days of training. I worked for Raley's on a few occasions between February and the end of April. I also worked for approximately seven (7) days during the month of May 2021.

In May 2021 I was asked to fill in for a pharmacist that was going on vacation. I was asked to report to the Raley's Pharmacy located on Mayberry Dr. in Reno, NV. During the first week in May 2021 I worked on two separate occasions. One shift I opened the pharmacy and on another day I closed the pharmacy. On about my seventh day of employment with Raley's, I got into an argument with the "store lead". I do not recall his name, but he was about 20 years old. He pulled me aside and told me I needed to work faster as I had only filled two (2) prescriptions in an hour. I was very angry and insulted. I knew that if I called Human Resources (HR) and complained they would not do anything about it. I knew they would not come to the Pharmacy and speak with me, so in order to get the attention of HR I stole a few items. Specifically, I stole paper plates and cups and general office supplies. I knew HR would see my actions on the video cameras and call me. I also purposely showed the items I stole the three Raley's employees as I knew they would report me to HR.

On a separate occasion, after I closed the pharmacy I realized I still had the key, and that I had left the lockbox in the pharmacy. After the pharmacy had been closed for about an hour, I returned to the pharmacy to retrieve the lockbox. I do not recall being confronted by anyone from management at this time. I located the lockbox, returned the key to the box, and then turned the lockbox and key into a Raley's store team leader.

Exhibit 11 <sup>1</sup>

Alrass

21-065-Signed Statement ✓

Alrass005



With regards to stealing dangerous drugs, on the day that I was confronted by management for working too slow I was very angry and agitated. I suffer from "emotional" high blood pressure and I felt as though I could not function and that I was going to have a nervous breakdown, I did not have my own medication with me, so I took a bottle of Amlodipine. I opened a new bottle, tore off the seal and took one pill. I then poured the remaining tablets into an amber colored vial used for patients and threw away the manufacturer's bottle. I then put the vial containing the tablets into my purse. I know these actions were stupid and not acceptable. But, I was very mad so I did it anyway. I later realized my actions were inappropriate so I brought the tablets back to the pharmacy. I recovered the manufacturer's bottle and poured the pills from the amber vial back into the original bottle. I then returned the drugs to the pharmacy shelf.

With regards to a second bottle of dangerous drugs being taken by me on this same date I have no recollection.

I am aware that these events were captured on video cameras in the pharmacy. However, the pharmacy cameras did not capture me returning the drugs to the pharmacy. I cannot explain why they captured me taking the pills, but not returning them.

I am currently prescribed the following controlled substances:

Tramadol  
Ambien  
~~Ambien~~ <sup>CA</sup>  
Oxycodone


In the past I have been prescribed ~~Oxycodone~~ <sup>CA</sup> and Hydrocodone. Approximately four (4) years ago I was prescribed Norco after having a root canal.

Approximately nine (9) months ago I was prescribed Norco after having my wisdom teeth pulled.

On 5/15/2021 I suffered a serious fall down the stairs in my home. I broke my back and had surgery on 5/17/2021. As a result, I am currently taking Oxycodone.

I am not currently working, nor am I able to work as a result of my back injury.

I am willing to sign an agreement with the NBOP that I will not work as a pharmacist, or in any facility that has access to dangerous drugs and/or controlled substances until the NBOP has completed their investigation.

Signed:   
Gladys Alrass

Date: 7/19/21

Witnessed By:

Monica Segeary 7/19/2021


Robert Lee 7-19-21



### Agreement Not to Practice

My name is Ghayda Alrass, and I am a registered pharmacist in the State of Nevada. My Nevada State Board of Pharmacy (NBOP) Registration is #13706. The NBOP is investigating allegations of my diverting dangerous drugs and controlled substances from Raley's Pharmacies where I was working as a pharmacist. I understand that the NBOP investigation is ongoing. Accordingly, I agree to the following:

1. I will not practice as a pharmacist, or in any capacity, at any place of employment licensed or registered by the NBOP, where access to dangerous drugs and/or controlled substances is possible, during the NBOP's investigation of my case.
2. I understand that violation of this written agreement may result in a summary suspension of my license/registration.
3. I have been advised that this Agreement Not to Practice is effective today July 12, 2021. If this signed agreement is not returned to the NBOP by close of business July 12, 2021 the Board's Executive can proceed with a summary suspension of my license/registration.

Signed:   
Ghayda Alrass

Date: 7/19/2021  
July 19, 2021

21.11.5 Signed Agreement Not to Practice ✓  
Alrass008

## Monica Segedy

---

**From:** Ghayda Alrass <[\[redacted\]](#)>  
**Sent:** Tuesday, July 13, 2021 9:55 AM  
**To:** Monica Segedy  
**Subject:** Re: Agreement Not to Practice

Hello Monica,

I just saw your email now, and i wish with all respect any of three of you told me that yesterday "7/12/21" that it's

the last day before you suspend me since nobody mention that even though i asked more than once that I'm willing to sign physically at NBOP the statement you need from me.

Yesterday and today I'm bed ridding because I'm in sever pain since my physician specifically told me not to set or stand more than 20 minutes, and the meeting took more than an hour. Monica, after the meeting you told me " you don't look like that you have major surgery in your back". I'm sorry, but this is unacceptable, and since I'm professional and honest that quote will be translate to bad statement.

I do understate the three of you doing your job, but if you don't believe what i said you can call Renown @775-982-4100, or the physician who did the surgery ( spine nevada.. dr.Perry @ 775-348-8800 ) and the pharmacy ( Walgreens 775-853-9887 ) instead telling " you don't look like that i had back surgery ).

Going forward, NBOP more that welcome to meet me but it'll be in my house since i can't physically meet you else where because of my surgery and i can provide you with written excuse from the physician who did my back surgery.

Monica, i appreciated you time and effort, and I'll send a 2nd Email to correct few thing in "my statement".

Thank you,

***Ghayda Alrass***

On Monday, July 12, 2021, 02:10:11 PM PDT, Monica Segedy <[msegedy@pharmacy.nv.gov](mailto:msegedy@pharmacy.nv.gov)> wrote:

Ghayda:

Attached to this email is the Agreement Not to Practice that you agreed to sign this morning during our interview. Please sign and return to me by COB today.



## Monica Segedy

---

**From:** Ghayda Alrass <  
**Sent:** Tuesday, July 13, 2021 11:16 AM  
**To:** Monica Segedy; Ghayda Alrass  
**Subject:** Correction for your statement

To whom it may concern,

I did few days before the incident but Raleys didn't request my help from feb-end April 2021.

It's a lead and not a store manager who told me " you need to be fast ".. and that was around my 7th day with rales.

There were 3 coworker and not only the camera who I purposely show them I'm taking home office supply so they will tell loss prevention/ hr about that because i need HR come down and I'll tell them how that store lead insult.

I went one night back to pharmacy because i had the key and put the alarm but forget the lockbox in the pharmacy, and the employee who put it in the store safe wasn't the store manager. Mr.Wuest said it's not a big deal if i took the key home. Sorry, indeed it's a big deal and it might cost me my license if i did that.

Mr.Wuest also mention that i did grocery shopping after i finish my shift, but i never heard that pharmacist grocery at the store is a crime.

In regard to my emotional blood pressure you can check with my PCP: dr.j. Schaup@775-851-5700

Fioricet is not controlled by many professional reference.

I had accident/ emergencies inside my house on 5/15/21..all record are with REMSA and Renown ER and main Renown [775-982-4100](tel:775-982-4100)

Oxycodone given to me after my emergency back surgery on 5/17/21 then e-script to Walgreen on 5/19/21.. so that accident and RX has nothing to do with Raleys.

I been a pharmacist since 1996 in both California and Nevada and never had any problem or issue with them or my pre- employer.

My dentist a while ago gave me 16 tablets of Norco and not Oxycodone.

Mr.Wuest told me " i don't trust you to be a pharmacist and fill prescription "

I'm proud to serve my community over 20 years, and i wish mr.Wuest checked both my previous employers and CA and NV Board of pharmacy.

Than you,

Confidential Patient Information  
Prescription Profile  
05/01/2021 through 08/30/2021

Patient Info:

CHAYDA ALRASS  
404 LOCIANA DR  
RENO, NV 89521-4288

Store Info: 12645 S VIRGINIA ST

RENO, NV 89518973  
(775) 853-9887

Patient Phone:

(949)207-8104

Date of Birth:

08/26/1967

Gender:

F

Allergy Conditions:

Health Conditions: We have health conditions on file

Prescription Number	Medication	NDC	RPH	Prescriber	Ins. Plan(s) Claim Ref#(s)	Date of Service	Quantity	Price
1100569-02662	METOPROLOL ER SUCCLINATE 100MG TABS	45963-0677-11	HAA	SCHAUPP, J.	GOODRX / 08241056463291180569	08/24/21	90.000	48.40
Your insurance saved you \$56.49								

Total Fillings: 1 Subtotal: 90.000 48.40

1193425-02662	AMTRIPTYLINE 50MG TABLETS	70710-1227-00	ARB	SCHAUPP, J.	MCARD / H71797E	05/11/21	150.000	50.00
Your insurance saved you \$35.99								

Total Fillings: 1 Subtotal: 150.000 50.00

1193864-02662	EZETIMIBE 10MG TABLETS	00781-5690-31	STT	SCHAUPP, J.	MDNDC / 211428382094012999	05/22/21	30.000	34.69
Your insurance saved you \$28.3								

1193864-02662	EZETIMIBE 10MG TABLETS	00781-5690-31	HAA	SCHAUPP, J.	GOODRX / 08241055220411193864	08/24/21	30.000	29.25
Your insurance saved you \$33.74								

Total Fillings: 2 Subtotal: 60.000 63.94

Exhibit I



Maigniens

Confidential Patient Information  
Prescription Profile  
05/01/2021 through 08/30/2021

Patient Info:

CHAYDA ALRASS  
404 LUCIANA DR  
RENO, NV 89521-4288

Store Info: 12545 S VIRGINIA ST

RENO, NV 895118973  
(775) 853-3887

Patient Phone: (949) 207-8104

Date of Birth: 08/26/1967

Gender: F

Prescription

Number Medication  
1201942-02662 BUTALBITAL/ACETAMINOPHEN/CAFE TABS  
Your insurance saved you \$79.25

NDC RPh Prescriber  
00527-1695-05 ARB SCHAUVP, J.

Ins. Plan(s) Date of  
Claim Ref#(s) Service Quantity Price  
MNDC / 05/11/21 120.000 80.64  
211310322998014959

Total Fillings: 1 Subtotal: 120.000 80.64

1201945-02662 TRAMADOL 50MG TABLETS  
Your insurance saved you \$106.04

65162-0627-11 STT SCHAUVP, J.

WCARD / 05/13/21 240.000 77.85  
H73XMH1

Total Fillings: 1 Subtotal: 240.000 77.85

1202279-02662 ZOLPIDEN 10MG TABLETS  
Your insurance saved you \$45.11

65862-0160-01 STT SCHAUVP, J.

ECRE / 05/22/21 30.000 24.68  
8292967105221G

Total Fillings: 1 Subtotal: 30.000 24.68

1209685-02662 OXYCODONE/ACETAMINOPHEN 5-325MG TAB  
Your insurance saved you \$5.63

00406-0512-05 ARB SHEPHERD, S.

ECRE / 05/15/21 10.000 11.36  
6328721105153G

Total Fillings: 1 Subtotal: 10.000 11.36

Confidential Patient Information  
Prescription Profile  
05/01/2021 through 09/30/2021

Report date/time: 09/30/2021 11:29 A

Patient Info:

CHAYDA ALKASS  
404 LUCIANA DR  
RENO, NV 89521-4286

Store Info: 12645 S VIRGINIA ST  
RENO, NV 89518973  
(775) 853-9887

Patient Phone: (949) 207-8104

Date of Birth: 08/26/1967

Gender: F

Prescription

Number	Medication	NDC	RPh	Prescriber	Ins. Plan(s)	Claim Ref(s)	Date of Service	Quantity	Price
1211354-02662	POLYETH GLYC 3350 NF PMDR PACKS 14S	45802-0868-66	STT	BIRD, B.	ECRE /		05/21/21	30.000	65.14
Your insurance saved you \$9.83									
					3025819105214G				

Total fillings: 1 Subtotal: 30.000 65.14

1211355-02662	AMLODIPINE BESYLATE 5MG TABLETS	68180-0720-03	STT	BIRD, B.	ECRE /		05/21/21	30.000	19.23
Your insurance saved you \$26.76									
					7937598105215G				

Total fillings: 1 Subtotal: 30.000 19.23

1211356-02662	HYDROCODONE/ACETAMINOPHEN 5-325 TB	00406-0123-05	STT	BIRD, B.	ECRE /		05/21/21	12.000	11.08
Your insurance saved you \$6.51									
					7986597105215G				

Total fillings: 1 Subtotal: 12.000 11.08

1211372-02662	VITAMIN D3 1,000 UNIT TABLETS	31604-0026-83	STT	BIRD, B.	ECRE /		05/21/21	60.000	5.79
					9025276105219G				

Total fillings: 1 Subtotal: 60.000 5.79





Confidential Patient Information  
Prescription Profile  
05/01/2021 through 08/30/2021

Report date/time: 08/10/2021 11:29 A

## Patient Info:

SHAYDA ALBASS  
404 LUCIANA DR  
RENO, NV 89521-4288

Store Info: 12645 S VIRGINIA ST

RENO, NV 89518973  
(775) 853-9887

Patient Phone: (949) 207-8104

Date of Birth: 08/26/1967

Gender: F

## Prescription

Number	Medication	NDC	RPh	Prescriber	Ins. Plan(s) Claim Ref(s)	Date of Service	Quantity	Price
1214914-02862	AMITRIPTYLINE 50MG TABLETS	70710-1227-00	MLM	SCHAUPP, J.	BCRE / 2468345106032G	06/03/21	450.000	249.79
					Total Fillings: 1	Subtotal: 450.000		249.79

1215120-02862 OXYCODONE 10MG IMMEDIATE REL TABS  
Your insurance saved you \$80.88

BCRE /  
2607516106035G

06/03/21 84.000 25.11

Total Fillings: 1 Subtotal: 84.000 25.11

1216752-02862 BUTALBITAL/ACETAMINOPHEN/CAFE TABS

00527-1695-05

ARB SCHAUFP, J.

BCRE /  
4251987106098G

06/03/21 120.000 159.89

1216752-02862 BUTALBITAL/ACETAMINOPHEN/CAFE TABS

00527-1695-05

HAA SCHAUFP, J.

DESCDN /  
7576748222

07/07/21 120.000 80.49

Total Fillings: 2 Subtotal: 240.000 240.38



Confidential Patient Information  
Prescription Profile  
05/01/2021 through 08/30/2021

Patient Info: SHAYDA ALPARG

404 LUCIANA DR  
RENO, NV 89521-4288

Store Info: 12645 S VIRGINIA ST

RENO, NV 895118973  
(775)853-9887

Patient Phone: (949)207-8104

Date of Birth: 08/26/1967

Gender: F

Prescription  
Number Medication

NDC

RPh

Prescriber

Ins. Plan(s)  
Claim Ref(s)

Date of  
Service

Quantity

Price

1218226-02862 OXYCODONE 10MG IMMEDIATE REL TABS  
Your insurance saved you \$53.95

10702-0056-01

STT GREGORY, K.

ECRE /  
6194675106166G

06/16/21

56.000

18.74

Total Fillings: 1 Subtotal: 56.000 18.74

1221061-02862 ZOLPIDEN 10MG TABLETS

Your insurance saved you \$53.89

71093-0156-04

HAA SCHNAPP, J.

MCARD /  
HANAFIA

06/26/21

30.000

16.10

Total Fillings: 1 Subtotal: 30.000 16.10

1221256-02862 OXYCODONE 10MG IMMEDIATE REL TABS

Your insurance saved you \$53.95

10702-0056-01

STT GREGORY, K.

ECRE /  
8770484106258G

06/25/21

56.000

18.74

Total Fillings: 1 Subtotal: 56.000 18.74

1225770-02862 OXYCODONE 10MG IMMEDIATE REL TABS

Your insurance saved you \$53.95

10702-0056-01

BNH SCHAEFER, K.

ECRE /  
4463810107132G

07/11/21

56.000

18.74

Total Fillings: 1 Subtotal: 56.000 18.74

Confidential Patient Information  
Prescription Profile  
05/01/2021 through 08/30/2021

Report date/time: 08/30/2021 11:29 A

Patient Info: GRAYDA ALENG

Store Info: 12645 S VIRGINIA ST

404 LUCIANA DR

RENO, NV 89518973

RENO, NV 89521-4288

(775) 853-9887

Patient Phone: (949) 207-8104

Date of Birth: 08/26/1967

Gender: F

Prescription  
Number Medication

NDC

RPh

Prescriber

Ins. Plan(s)  
Claim Ref(s)

Date of  
Service

Quantity

Price

1227859-02662 ZOLPIDEM 10MG TABLETS

65862-0160-01

HAA

SCHAUPP, J.

ECRE /

07/20/21

60.000

43.36

Your insurance saved you \$90.63

Total Fillings: 1 Subtotal: 60.000 43.36

1229256-02662 AMITRIPTYLINE 50MG TABLETS

70756-0203-12

HAA

SCHAUPP, J.

GOODRX /

07/26/21

450.000

141.51

Your insurance saved you \$108.28

Total Fillings: 1 Subtotal: 450.000 141.51

1229286-02662 OXYCODONE 10MG IMMEDIATE REL. TABS

42858-0002-01

HAA

RAY, S.

ECRE /

07/26/21

56.000

12.64

Your insurance saved you \$60.05

Total Fillings: 1 Subtotal: 56.000 12.64

1231597-02662 BUTANBITAL/ACETAMINOPHEN/CAFF TABS

00527-1695-05

STT

SCHAUPP, J.

GOODRX /

08/02/21

120.000

58.36

Your insurance saved you \$101.53

GOODRX /

08/02/21

120.000

58.36



Confidential Patient Information  
Prescription Profile  
05/01/2021 through 08/30/2021

Patient Info: CHAYDA ALRASS  
404 LUCIANA DR  
RENO, NV 89521-4288

Store Info: 12645 S VIRGINIA ST  
RENO, NV 895118973  
(775) 853-9687

Patient Phone: (949) 207-8104  
Date of Birth: 08/26/1967  
Gender: F

Prescription Number Medication NDC RPh Prescriber  
1231397-02662 BUTALBITAL/ACETAMINOPHEN/CAFE TABS 00527-1695-05 STT SCHAUPE, J.  
Your insurance saved you \$101.53

Ins. Plan(s) Date of Service Quantity Price  
Claim Ref(s)  
GODRX / 08/27/21 120.000 58.36  
7944899108276G

Total Pillings: 2 Subtotal: 240.000 116.72

1233543-02662 OXYCODONE 5MG IMMEDIATE REL TABS  
Your insurance saved you \$21.05

00406-0552-01 STT GREGORY, K.

ECRE / 08/09/21 56.000 15.74  
2871616108093G

Total Pillings: 1 Subtotal: 56.000 15.74

1237788-02662 OXYCODONE 5MG IMMEDIATE REL TABS  
Your insurance saved you \$15.78

00406-0552-01 SRR GREGORY, K.

ECRE / 08/24/21 42.000 13.31  
6985410108246G

Total Pillings: 1 Subtotal: 42.000 13.31

Confidential Patient Information  
Prescription Profile  
05/01/2021 through 08/30/2021

## Patient Info:

GRAYDA ALBASS  
404 LUCIANA DR  
RENO, NV 89521-4288

Store Info: 12645 S VIRGINIA ST  
RENO, NV 89518973  
(775) 853-9807

## Patient Phone:

(949) 207-8104

## Date of Birth:

08/26/1967

## Gender:

F

## Prescription

Number

Medication

NDC

RPh

Prescriber

Ins. Plan(s)  
Claim Ref#(s)

Date of  
Service

Quantity

Price

Total Scripts: 31      Total Price: 1496.14  
Using generics saved you a total of 0.00  
Using more generics could have saved you a total of 0.00  
Your insurance saved you a total of 1428.73  
Your cash quantity discount saved you a total of 0.00

The Manager and Staff at Walgreens

Thank You For Your Patronage

For your convenience, this information is available online at [www.walgreens.com](http://www.walgreens.com)

Ask our pharmacy staff for more information.

Please be aware that certain insurance claim information may not be included in this report. Please speak with a pharmacy staff member if you have questions regarding payments for your prescriptions.



1 Persi J. Mishel, Esq.  
2 Nevada Bar No: 2270  
3 10161 Park Run Dr., Suite 150  
4 Las Vegas, NV 89145  
5 Tel: (702) 981-3043  
6 mishelpersi@yahoo.com



7 Attorney for Respondent Ghayda Alrass

8 **BEFORE THE NEVADA STATE BOARD OF PHARMACY**

9 NEVADA STATE BOARD OF PHARMACY, )  
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PREHEARING STATEMENT to the following persons:

Mark Sedar, Chief Operating Officer  
[msedar@pharmacy.nv.gov](mailto:msedar@pharmacy.nv.gov)

/s/ Persi J. Mishel  
Persi J. Mishel, Esq.



1 6. Ms. Jennifer Hall of Raley's claims that on April 26, 2021, its pharmacist  
2 in charge (PIC) discovered 52 tablets of Diazepam 10mg were missing. I  
3 did not work on April 26. Relay's records show that I did not work from  
4 April 23-April 29.

5 7. I did not take 52 tablets of Diazepam 10mg.

6 8. Ms. Hall claims that PIC told her that on April 22, 2021, I "exhibited  
7 suspicious behavior." This statement is vague. It does not specify what  
8 behavior I have shown that the PIC has deemed it "suspicious."

9 9. Ms. Hall also claims that on April 27, 2021, the PIC told her that 10 pills  
10 of hydrocodone/acetaminophen were missing. As I noted above, I did not  
11 work on April 27. I worked on April 30.

12 10. I did not take 10 pills of hydrocodone/acetaminophen.

13 11. Ms. Hall alleges that "the pharmacy supervisor" had a conversation  
14 with me on May 1, 2021, and he thought the conversation was "strange"  
15 and that I was nervous and contradicting myself. The fact is that Mr. Wang,  
16 the pharmacy supervisor, asked me the reason for my delay to work and I  
17 told him that I got lost because it was my first time in this area and Google  
18 map was not helpful. I also informed him that I called the store manager  
19 that I am running late. There was nothing "strange" about our  
20 conversation, nor was I nervous or contradicting myself.

21 12. On May 4, 2021 around 7:30 pm., when I had to give the store manager  
22 the key lock (where I have to keep the Pharmacy's key inside), I  
23

1 forget the key lock inside the pharmacy, so I went back to the pharmacy  
2 (and that after I locked the pharmacy in the first time and put the alarm on  
3 and after I did some grocery shopping inside the store), so I opened the  
4 pharmacy's door and turned off the alarm and took the keylock and then  
5 turned the alarm on again, the whole process took about less than 3  
6 minutes and Raley's can check with the security company who are in  
7 charge with the alarm system. I didn't take or try to take anything except  
8 the keylock. After I locked the pharmacy, I did put the key inside the  
9 keylock and gave it the store supervisor that so she can put it in the store's  
10 safety box, which is located at the front right before you leave the store.

11 13. Also, in the morning of May 4, 2021, the camera showed that I went to  
12 my purse, I did indeed to grab my medication (ibuprofen) for my hip pain.

13 14. On May 3, 2021, when Mr. Dragwood, store supervisor, called me to the  
14 manager's office and in the presence of another supervisor told me that the  
15 other pharmacist working that day complained about my alleged slow pace  
16 ( indeed, it was my 7th day with Raley's and she was working for Relay's  
17 20+ years) and ordered me to be faster, that date @ store 103, under the  
18 eyes of the other pharmacist and 2 technicians and under the camera's  
19 recording, I went back to the pharmacy while extremely upset and  
20 humiliated due store supervisor's unfair criticism of me, I opened the store  
21 use cabinet of paper plates, markers and alcohol swabs, and put them in  
22 Raley's plastic bag hoping that will withdraw HR attention so they will come  
23 down to the pharmacy and hear my statement  
24  
25



1 about the unfair way that supervisor treated me.

2 15. On May 5, 2021, Asset protection Joseph and an HR personnel came  
3 and met me, when I told them what happened as mentioned above. Asset  
4 protection personnel ask me to pay \$25.00 as a cost for those stuffs. I had  
5 no choice but doing what I did so I draw asset protection and HR attention,  
6 so they hear from me about how the humiliating way the store supervisor  
7 treated me. There were 2nd pharmacist, two technicians, and the camera  
8 records.  
9

10 16. On May 6, 2021, I was feeling the symptoms of high blood pressure  
11 and I did not have my blood pressure medication with me. Due to this  
12 emergency circumstance and to prevent risk of substantial bodily harm, I  
13 took just one tablet of Amlodipine 10mg. My rising blood pressure affected  
14 my mental capacity while I was at work. Therefore, I was not thinking  
15 logically when I took the medication. Due to my mental condition, at the  
16 time, I did not realize I took "acetaminophen," which is an OTC  
17 medication.  
18

19 17. I had an accident at home on May 15, 2021, in which I broke my back.

20 18. I had a surgery in the form of laminectomy and fusion at T6-T8 levels  
21 on May 17, 2021.

22 19. At the time Ms. Segedy contacted me to sign a statement she had  
23 prepared, I was on the following medications: Tramadol, Ambien, and  
24 Oxycodone. Further, due to the pain, I was bedridden most of the time. I  
25

1 informed Ms. Segedy of these facts.

2 20. At no time did Ms. Segedy, the Board, or Raley's informed me of  
3 my rights to see an attorney, or that the statement Ms. Segedy had  
4 prepared can be used against me. I was in pain. I was bedridden. I was  
5 on medication. I was under pressure because Ms. Segedy told me that if I  
6 do not sign the statement, my pharmacy license will be immediately  
7 suspended.  
8

9 21. I have been a pharmacist for approximately 24 years and never had any  
10 disciplinary proceeding against me in Nevada or California before this  
11 proceeding.

12 22. I admit that I have made errors in my judgment in this case. However,  
13 my errors were not intentional, nor were they for any pecuniary gain.

14 23. If the Board is inclined to impose sanctions against me, I ask the Board  
15 to consider that I am disabled due to my surgery, have not worked for  
16 months, and according to my doctor's recommendation, I will not be able  
17 to work in any forceable future. I am in pain and tremendous stress.

18 I declare under penalty of perjury that the above statements are true and  
19 correct.  
20

21 ///



1 Dated this 6<sup>th</sup> day of October, 2021.

2  
3 /S/ Ghayda Alrass<sup>1</sup>  
4 Ghayda Alrass  
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21 <sup>1</sup> Due to technical issues with a scanner, I was not able to provide my  
22 attorney with a hand-signed Declaration. However, I will be available at the  
23 October 13 hearing, in case there is any question regarding the validity of  
24 my e-signature.  
25

**Timesheet for Brett Kandt –**

**Ghayda Alrass, R.Ph., Case No. 21-065-RPH-N**

DATE	TIME	
7/26/2021	3.50	
		Review investigative file; legal research; draft Notice of Intended Action and Accusation in Case 21-065-RPH-N.
7/27/2021	4.50	
		Review investigative file; legal research; revise Notice of Intended Action and Accusation in Case 21-065-RPH-N.
8/3/2021	2.75	
		Review investigative file; finalize and file Notice of Intended Action and Accusation in Case 21-065-RPH-N.
8/16/2021	0.25	
		Review notice from opposing counsel regarding representation and request for continuance in Case 21-065-RPH-N.
8/17/2021	1.75	
		Review Answer and Notice of Defense; confer with staff and review investigative file in Case 21-065-RPH-N.
8/23/2021	0.50	
		Correspond with California State Board of Pharmacy regarding inquiry on Case 21-065-RPH-N.
8/24/2021	2.50	
		Review motion for continuance and request for discovery in Case 21-065-RPH-N; draft continuance notice and confer with staff regarding compiling and bates-stamping all responsive documents; confer with opposing counsel.
9/15/2021	3.25	
		Review case file and draft proposed findings of fact, conclusions of law and order; draft proposed stipulated findings of fact, and confer with opposing counsel in Case 21-065-RPH-N.
9/17/2021	2.75	
		Review Respondent's Pre-Hearing Motion to Suppress Evidence in Case 21-065-RPH-N and research.
9/18/2021	1.75	
		Review Respondent's Pre-Hearing Motion to Suppress Evidence in Case 21-065-RPH-N and research.



9/21/2021 4.75

Confer with opposing counsel regarding merits of case and potential resolution legal research; draft opposition to Respondent's Pre-Hearing Motion to Suppress Evidence in Case 21-065-RPH-N.

9/22/2021 3.50

Confer with opposing counsel regarding merits of case and potential resolution legal research; draft and file opposition to Respondent's Pre-Hearing Motion to Suppress Evidence; prepare time sheet in Case 21-065-RPH-N.

9/27/2021 6.25

Review Reply in Support of Respondent's Pre-Hearing Motion to Suppress Evidence and confer with staff; prepare for hearing in Case 21-065-RPH-N.

9/30/2021 3.50

Prepare for hearing in Case 21-065-RPH-N; confer with staff and witnesses and prepare proposed exhibits.

10/6/2021 3.75

Prepare for hearing in Case 21-065-RPH-N; confer with staff and witnesses and prepare proposed exhibits.

10/7/2021 1.25

Review Respondent's Pre-Hearing Statement in Case 21-065-RPH-N.

10/8/2021 3.75

Prepare for hearing in Case 21-065-RPH-N; provide documentation of attorney's fees and costs to Respondent.

10/13/2021 2.00

Hearing in Case 21-065-CS-N

**TOTAL 52.25 hours x \$65.00/hour = \$3396.25**

**Timesheet for Monica S. Segedy**

**Ghayda Alrass, R.Ph., Case No. 21-065-RPH-N**

DATE	TIME
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6/02/2021	4.0 Hours
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Interviewed Jennifer Hall and reviewed pharmacy records provided.

Interview of PT Nyke Doan.

Reviewed video clips provided by Hall

6/07/2021	4.50 Hours
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Meeting with Regional Pharmacy Manager Rajdeep Bhanver at Raley's Pharmacy.

interviewed Bhanver and reviewed three video surveillance clips of Alrass.

Interviewed Eva Navoa

Interviewed Wendy Xu

7/12/2021	3.0 Hours
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Interviewed Ghayda Alrass and prepared written statement

Prepared Agreement Not to Practice

7/14/2021	1.0 Hour
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Attempted to locate and meet with Alrass at her residence.

7/19/2021	4.0 Hours
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Met with Alrass at her residence. Reviewed the statement and Agreement Not to Practice with Alrass. Prepared final investigative report.

8/9/2021	1.50 Hours
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Phone call from Alrass

Discussion of case with General Counsel

Reviewed Accusation

9/29/2021	1.0
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Reviewed Accusation and Case file

10/4/2021	1.0
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Met with General Counsel – discussed case

Contacted Witnesses

10/13/2021	2.0
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Reviewed case file

Attended Board Meeting as witness for the Board

**TOTAL: 22 hours x \$50.00/hour = \$1,100**



**Timesheet for Kristopher Mangosing -**

**Ghayda Alrass, R.Ph., Case No. 21-065-RPH-N**

DATE	TIME
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8/24/2021	2
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Prepared Discovery request – Compile, redacted, bate stamp

9/28-2021	1
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Prepared documents for Board Meeting Material -

**TOTAL 3 hours x \$31.86/hour = \$95.58**

**Timesheet for Shirley Hunting –**

**GHAYDA ALRASS, Certificate of Registration No. 13706 - Case No. 21-065-RPH-N**

**DATE                      TIME**

Date	Hours	Activity
07/29/21	.5	Prepared Accusation for filing.
08/03/21	1	Prepared First Amended Accusation for filing/mailling.

Total Hours

Rate              38.77

**Total Costs    58.16**





# Nevada State Board of Pharmacy

1050 E Flamingo Road • SUITE E217A

LAS VEGAS, NEVADA 89119-7524

(702) 486-6420 Ext 1531 • FAX (702) 486-7903 • [www.bop.nv.gov](http://www.bop.nv.gov)

5T

**Date:** | 9/21/2021

**To:** Brett Kandt

**Cc:** Shirley Hunting

**From:** Kenneth Scheuber - Investigator

**Subject:** Attempts to Serve David Howard Babit

---

I have made two (2) attempts to deliver the "Notice of Intended Action and Accusation" (Notice) to David Howard Babits last known physical address in the NVBOP Inlumon system. The first attempt was made on 09/10/21 at approximately 12:30pm. No one answered the door.

On 9/18/2021, I made the second attempt to deliver the "Notice". No one answered the door again however, I could hear electronics playing inside the home. After knocking on the door and ringing the doorbell for nearly 10 minutes, I left the residence without serving the notice.

I also made four (4) attempts to contact David Howard Babit by phone on 9/10/2021, twice on 09/14/2021 and again on 09/15/2021. I left messages on three (3) of the telephone attempts. The person who identified himself on message was Aaron Babit. I never received a return call from David Howard Babit.

A handwritten signature in blue ink, appearing to read "Kenneth Scheuber".

9-21-21

Exhibit A



# NEVADA STATE BOARD OF PHARMACY

985 Damonte Ranch Pkwy Suite 206, Reno, Nevada 89521

(775) 850-1440 • 1-800-364-2081 • FAX (775) 850-1444

• Web Page: [bop.nv.gov](http://bop.nv.gov)

September 11, 2021

David Howard Babit  
6758 Erato Falls Street  
Las Vegas, NV 89148

Re: David Howard Babit and Case No. 21-098-PT-S

Dear David Howard Babit

The hearing for case number 21-098-PT-S has been scheduled for Wednesday, 10/13/2021 1:30 PM PST or soon thereafter.<sup>20</sup> Pursuant to NRS 241.023(1)(c) you may appear live via Zoom remotely or at the following location:

Hampton Inn Las Vegas Strip South  
7850 Giles Street  
Las Vegas, NV 89123

Via Videoconference at Zoom: <https://zoom.us/j/5886256671>

or

Via Teleconference at 1 (669) 900-6833  
Meeting ID: 588 625 6671

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

If you have any questions, please feel free to contact the board staff.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Mangosing".

Kristopher Mangosing  
Assistant Board Coordinator

Exhibit B

9171 9690 0935 0252 0565 55

<sup>20</sup> Please note that the Board meeting will commence Wednesday; however, the meeting will continue, if necessary, on Thursday until the Board concludes its business. The full meeting agenda is available at [www.notice.nv.gov](http://www.notice.nv.gov) and [www.bop.nv.gov](http://www.bop.nv.gov).



1 NICHOLAS A. TRUTANICH  
 United States Attorney  
 2 District of Nevada  
 Nevada Bar Number 13644  
 3 BIANCA R. PUCCI  
 Assistant United States Attorney  
 4 501 Las Vegas Blvd. South, Suite 1100  
 Las Vegas, Nevada 89101  
 5 Phone: (702) 388-6336  
 Bianca.Pucci@usdoj.gov  
 6 *Attorneys for the United States of America*

X FILED ENTERED	RECEIVED SERVED ON COUNSEL/PARTIES OF RECORD
November 4, 2020	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY:	ASB DEPUTY

7 UNITED STATES DISTRICT COURT  
 8 FOR THE DISTRICT OF NEVADA

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 DAVID HOWARD BABIT,

13 Defendant.

No. 2:20-cr- 276 - GMN - EJY

Plea Agreement for Defendant  
 David Howard Babit Pursuant to Fed. R.  
 Crim. P. 11(c)(1)(A) and (B)

14 This plea agreement between David Howard Babit ("defendant") and the United States  
 15 Attorney's Office for the District of Nevada (the "USAO") sets forth the parties' agreement  
 16 regarding the criminal charges referenced herein and the applicable sentences, fines, restitution,  
 17 and forfeiture in the above-captioned case. This agreement binds only defendant and the USAO  
 18 and does not bind the district court, the U.S. Probation Office, or any other federal, state, local,  
 19 or foreign prosecuting, enforcement, administrative, or regulatory authorities. This agreement  
 20 does not prohibit the USAO or any agency or third party from seeking any other civil or  
 21 administrative remedies, including civil forfeiture *in rem*, directly or indirectly against defendant  
 22 or defendant's property.  
 23

24 This agreement becomes effective upon signature by defendant, defendant's counsel, and  
 an Assistant United States Attorney.

Exhibit C

I. DEFENDANT'S OBLIGATIONS

1. Defendant agrees to:

- a. Give up the right to indictment by a grand jury and, at the earliest opportunity requested by the USAO and provided by the Court, appear and plead guilty to a two-count information in the form attached to this agreement as Exhibit A or a substantially similar form, which charges defendant with *Coercion and Enticement*, in violation of 18 U.S.C. § 2422(b) (Count 1 – Victim 1) and *Coercion and Enticement*, in violation of 18 U.S.C. § 2422(b) (Count 2 – Victim 2).
- b. Stipulate to the facts agreed to in this agreement;
- c. Abide by all agreements regarding sentencing contained in this agreement;
- d. Not seek to withdraw defendant's guilty pleas once they are entered;
- e. Appear for all court appearances, surrender as ordered for service of sentence, obey all conditions of any bond, and obey any other ongoing court order in this matter;
- f. Not commit any federal, state, or local crime;
- g. Be truthful at all times with the U.S. Probation and Pretrial Services Offices and the Court;
- h. Before and after sentencing, upon request by the Court, the USAO, or the Probation Office, provide accurate and complete financial information, submit sworn statements, and/or give depositions under oath concerning defendant's assets and defendant's ability to pay. As part of the required disclosure, defendant agrees to provide any and all financial information and authorizations requested by the Probation Office for preparation of the Presentence Report. Defendant further agrees that, upon filing of this agreement, the USAO is authorized to obtain defendant's credit report. Defendant will also complete a financial form provided by the USAO, to include all supporting documentation, and return it to the USAO



1 within three (3) weeks from entry of the plea. Defendant agrees that the district court may enter  
2 any order necessary to effectuate or facilitate disclosure of defendant's financial information.

3 i. To facilitate payment of any fine, forfeiture, restitution, or assessment,  
4 surrender assets defendant obtained directly or indirectly as a result of defendant's crimes.

5 Defendant agrees to voluntarily release funds and property under defendant's control or in which  
6 defendant has any property interest, before and after sentencing, to pay any fine or restitution  
7 identified in this agreement, agreed to by the parties, or ordered by the Court.

8 j. Agree to and not oppose the imposition of the following special conditions  
9 of probation or supervised release:

10 i. Search and Seizure – The defendant must submit his person,  
11 property, house, residence, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)),  
12 other electronic communications or data storage devices or media, or office, to a search  
13 conducted by a United States Probation Officer. Failure to submit to a search may be grounds  
14 for revocation of release. The defendant must warn any other occupants that the premises may  
15 be subject to searches pursuant to this condition. The probation officer may conduct a search  
16 under this condition only when reasonable suspicion exists that you have violated a condition of  
17 supervision and that the areas to be searched contain evidence of this violation. Any search must  
18 be conducted at a reasonable time and in a reasonable manner.

19 ii. Sex Offender Treatment – The defendant shall participate in a sex  
20 offense-specific treatment program and follow the rules and regulations of that program. The  
21 probation officer will supervise your participation in the program (provider, location, modality,  
22 duration, intensity, etc.)

23 ///

24 ///

1                   iii.     Polygraph Testing – The defendant must submit to periodic  
2 polygraph testing at the discretion of the probation officer as a means to ensure that he is in  
3 compliance with the requirements of his supervision or treatment program.

4                   iv.     Pornography Prohibition – The defendant must not view or possess  
5 any “visual depiction” (as defined in 18 U.S.C. § 2256(5)), or any photograph, film, video,  
6 picture, or computer or computer-generated image or picture, whether made or produced by  
7 electronic, mechanical, or other means, of “sexually explicit conduct” (as defined by 18 U.S.C. §  
8 2256(2)) involving children , or “actual sexually explicit conduct” (as defined by 18 U.S.C. §  
9 2257(h)(1)) involving adults. These restrictions do not apply to materials necessary to, and used  
10 for, any future appeals, or materials prepared or used for the purposes of sex-offender treatment.

11                   v.     Computer Search – The defendant must submit his computers (as  
12 defined in 18 U.S.C. § 1030(e)(1)) or other electronic communications or data storage devices or  
13 media, to a search. A probation officer may conduct a search pursuant to this condition only  
14 when reasonable suspicion exists that there is a violation of a condition of supervision and that  
15 the computer or device contains evidence of this violation. Any search must be conducted at a  
16 reasonable time and in a reasonable manner.

17                   vi.     Computer Monitoring – To enable the computer search condition,  
18 the defendant must submit your computers (as defined in 18 U.S.C. § 1030(e)(1)) or other  
19 electronic communications or data storage devices or media, to the installation of computer  
20 monitoring software by the probation officer.

21                   vii.    Computer Search - Monitoring Software - To ensure compliance  
22 with the computer monitoring condition, the defendant must allow the probation officer to  
23 conduct periodic, unannounced searches of any computers (as defined in 18 U.S.C. § 1030(e)(1))  
24 subject to computer monitoring. These searches shall be conducted for the purposes of



1 determining whether the computer contains any prohibited data prior to installation of the  
2 monitoring software; to determine whether the monitoring software is functioning effectively  
3 after its installation; and to determine whether there have been attempts to circumvent the  
4 monitoring software after its installation. The defendant must warn any other people who use  
5 these computers that the computers may be subject to searches pursuant to this condition

6           viii. Minor Prohibition – the defendant shall not have direct contact with  
7 any child you know or reasonably should know to be under the age of 18, not including his own  
8 children, without the permission of the probation officer. If the defendant has any direct contact  
9 with any child the defendant knows or reasonably should know to be under the age of 18, not  
10 including his own children, without the permission of the probation officer, the defendant must  
11 report this contact to the probation officer within 24 hours. Direct contact includes written  
12 communication, in-person communication, or physical contact. Direct contact does not include  
13 incidental contact during ordinary daily activities in public places.

14           ix. Place Restriction - Children Under 18 – The defendant must not go  
15 to, or remain at, any place primarily used by children under the age of 18, unless he has the  
16 express prior permission of your Probation Officer. Examples of such prohibited places include  
17 parks, schools, playgrounds, and childcare facilities

18           x. Report to Probation Officer After Release from Custody – The  
19 defendant shall report, in person, to the probation office in the district to which he is released  
20 within 72 hours of discharge from custody.

21           k. Defendant agrees that restitution shall be ordered due and payable in full  
22 immediately after the judgment is entered, and that the full amount of any restitution ordered is  
23 subject to immediate enforcement and collection by the USAO or defendant's victims, or both.  
24 Defendant agrees that any schedule of payments entered by the district court is a schedule of the

1 minimum payment due and does not prohibit or limit the methods by which the USAO may  
2 immediately enforce and collect the judgment in full. Defendant acknowledges that restitution  
3 may not be discharged, in whole or in part, in any present or future bankruptcy proceeding.

4           1.     Child Pornography Restitution: The USAO and defendant stipulate and  
5 agree that the child pornography images received, distributed, or possessed by defendant  
6 depicted images of victims being sexually abused and further agree that a victim's knowledge  
7 that images of his or her abuse are being disseminated and possessed by others caused certain  
8 victims to be re-victimized and has resulted in harm that is distinct from that suffered from the  
9 actual contact physical sexual abuse, thus such victims are harmed by the actions of defendant.  
10 In consequence of these factors, if the USAO meets its burden under 18 U.S.C. § 2259,  
11 18 U.S.C. § 3663, and pursuant to *Paroline v. United States*, 134 S. Ct. 1710 (2014), defendant  
12 agrees to pay restitution in the amount of \$3,000 per victim, for any victim who may be  
13 identified through the Child Victim Identification Program (CVIP) or Child Recognition  
14 Identification System (CRIS) and who requests restitution prior to sentencing. Defendant agrees  
15 to pay this amount without requiring the USAO to disaggregate the loss attributed to the original  
16 sexual abuse or to other persons who disseminated, received, or possessed the child pornography  
17 images, from defendant's actions in this case. Defendant stipulates and agrees to the imposition  
18 of such restitution despite not being convicted of possession of child pornography pursuant to 18  
19 U.S.C. § 3663(a)(3) which "authoriz[es] sentencing courts to award restitution to the extent  
20 agreed upon by the parties in a plea agreement, even if beyond those acts for which the  
21 defendant was convicted."

22           m.     The forfeiture of the property and the imposition of the forfeiture of the  
23 property as set forth in this Plea Agreement and the Forfeiture Allegation of the Criminal  
24 Information.



## II. THE USAO'S OBLIGATIONS

2. The USAO agrees to:

- a. Stipulate to facts agreed to in this agreement;
- b. Abide by all agreements regarding sentencing contained in this agreement;
- c. At sentencing, provided that defendant demonstrates an acceptance of responsibility for the offenses up to and including the time of sentencing, recommend a two-level reduction in the applicable sentencing guidelines offense level, pursuant to USSG § 3E1.1, and move for an additional one-level reduction if available under that section;
- d. Not bring any additional charges against defendant arising out of the investigation in the District of Nevada which culminated in this agreement and based on conduct known to the USAO. However, the USAO reserves the right to prosecute defendant for (a) any crime of violence as defined by 18 U.S.C. § 16; and (b) any criminal tax violations (including conspiracy to commit such violations chargeable under 18 U.S.C. § 371). Defendant agrees that the district court at sentencing may consider any uncharged conduct in determining the applicable sentencing guidelines range, the propriety and extent of any departure from that range, and the sentence to be imposed after consideration of the sentencing guidelines and all other relevant factors under 18 U.S.C. § 3553(a).

## III. ELEMENTS OF THE OFFENSES

3. Counts One and Two: The elements of *Coercion and Enticement* under 18 U.S.C. § 2422(b) are as follows:

- First: The defendant knowingly persuaded, induced, enticed, or coerced, and attempted to, the Victim to engage in any sexual activity;
- Second: The defendant used the Internet, the mail, a telephone, a cell phone, or any facility or means of interstate or foreign commerce to do so;

1        Third:        When the defendant did these acts, the defendant believed that the Victim  
2                                was less than 18 years of age; and

3        Fourth:        That, had the sexual activity actually occurred, one or more of the  
4                                individuals engaging in the sexual activity could have been charged with a  
5                                criminal offense, to wit: *Sexual Exploitation of Children*, in violation of 18  
6                                U.S.C. § 2251(a).

7        See Eleventh Circuit Model Criminal Jury Instructions No. O92.2 (Revised 2016) and Fifth  
8        Circuit Pattern Jury Instruction 2.91 (2015).

9                                **IV. CONSEQUENCES OF CONVICTION**

10        4.        Maximum and Minimum Statutory Penalties:

11                                a.        Defendant understands that the statutory maximum sentence the district  
12        court can impose for each violation of 18 U.S.C. § 2422(b) as charged in Counts One and Two,  
13        is: life imprisonment; lifetime supervised release; a fine of \$250,000 or twice the gross gain or  
14        gross loss resulting from the offenses, whichever is greatest.

15                                b.        Defendant understands that the statutory mandatory minimum sentence  
16        that the Court must impose for a violation of 18 U.S.C. § 2422(b) as charged in Counts One and  
17        Two is: ten years of imprisonment, followed by a five-year period of supervised release, and a  
18        mandatory special assessment of \$100.

19                                c.        Defendant understands, therefore, that the total maximum sentence for all  
20        offenses to which defendant is pleading guilty is: life imprisonment; a lifetime period of  
21        supervised release; a fine of \$500,000 or twice the gross gain or gross loss resulting from the  
22        offenses, whichever is greatest; and a mandatory special assessment of \$200.

23        5.        Mandatory Restitution Pursuant to 18 U.S.C. § 2429: Defendant understands that  
24        defendant will be required to pay full restitution to the victims of the offenses to which defendant



1 is pleading guilty. Defendant agrees that, in return for the USAO's compliance with its  
2 obligations under this agreement, the Court may order restitution to persons other than the  
3 victims of the offenses to which defendant is pleading guilty and in amounts greater than those  
4 alleged in the counts to which defendant is pleading guilty. In particular, defendant agrees that  
5 the Court may order restitution to any victim of any of the following for any losses suffered by  
6 that victim as a result: (a) any relevant conduct, as defined in USSG § 1B1.3, in connection with  
7 the offenses to which defendant is pleading guilty and (b) any charges not prosecuted pursuant to  
8 this agreement as well as all relevant conduct, as defined in USSG § 1B1.3, in connection with  
9 those counts and charges. This restitution includes all identified victims, including those for  
10 which defendant was not convicted (Victim 3 and Victim 4), pursuant to 18 U.S.C. § 3663(a)(3)  
11 which "authoriz[es] sentencing courts to award restitution to the extent agreed upon by the  
12 parties in a plea agreement, even if beyond those acts for which the defendant was convicted."

13 6. Criminal Forfeiture: Defendant understands that the district court will impose  
14 forfeiture of the property.

15 7. JVTA Special Assessment: Defendant understands that, pursuant to the Justice for  
16 Victims of Trafficking Act of 2015, the Court shall impose an additional \$5,000 special  
17 assessment per count if the Court concludes that defendant is a non-indigent person, to be paid  
18 after defendant's other financial obligations have been satisfied.

19 8. SORNA Registration: Defendant understands and agrees that under the Sex  
20 Offender Registration and Notification Act ("SORNA"), 34 U.S.C. 20901 et. seq., defendant  
21 must register as a sex offender and keep the registration current in each of the following  
22 jurisdictions: (1) where defendant resides; (2) where defendant is an employee; and (3) where  
23 defendant is a student. Defendant understands that he must comply with all the registration  
24 requirements contained in SORNA. 42 U.S.C. § 16901 et. seq. Defendant further understands

1 that the requirements for registration include, but are not limited to, providing defendant's name,  
2 residence address, and the names and addresses of any places where defendant is or will be an  
3 employee or a student.

4 Defendant further understands that the requirement to keep the registration current  
5 includes, but is not limited to, informing at least one jurisdiction in which defendant resides, is  
6 an employee, or is a student no later than three business days after any change of defendant's  
7 name, residence, employment, or student status. Defendant has been advised, and understands,  
8 that failure to comply with these obligations subjects defendant to an additional prosecution for  
9 failure to register as a sex offender under 18 U.S.C. § 2250(a).

10 9. Parole Abolished: Defendant acknowledges that defendant's prison sentence  
11 cannot be shortened by early release on parole because parole has been abolished.

12 10. Supervised Release: Defendant understands that supervised release is a period of  
13 time following imprisonment during which defendant will be subject to various restrictions and  
14 requirements. Defendant understands that if defendant violates one or more of the conditions of  
15 any supervised release imposed, defendant may be returned to prison for all or part of the term of  
16 supervised release authorized by statute for the offense, that resulted in the term of supervised  
17 release.

18 11. Factors under 18 U.S.C. § 3553: Defendant understands that the district court  
19 must consider the factors set forth in 18 U.S.C. § 3553(a) in determining defendant's sentence.  
20 However, the statutory maximum sentence and any statutory minimum sentence limit the  
21 district court's discretion in determining defendant's sentence.

22 12. Potential Collateral Consequences of Conviction: Defendant understands that, by  
23 pleading guilty, defendant may be giving up valuable government benefits and valuable civic  
24 rights, such as the right to vote, the right to possess a firearm, the right to hold office, and the



Defendant understands that unanticipated collateral consequences will not serve as grounds to withdraw defendant's guilty pleas.

## V. FACTUAL BASIS

11

1 offenses. Defendant admits and declares under penalty of perjury that the facts set forth below  
2 are true and correct:

3 Beginning on a date unknown and continuing to on or about April 24, 2017, defendant  
4 utilized the Internet applications LiveMe, ooVoo, Skype, and Snapchat, to contact Victim 1  
5 (female) and Victim 2 (male). Both Victim 1 and Victim 2 were 12-years-old at the time  
6 defendant contacted them and both victims lived in Alabama. Victim 1 and Victim 2 were step-  
7 siblings. Victims 1 and 2 told defendant their true ages and relationship to each other. Defendant  
8 used the alias "Michael Diaz" and "Mike" when speaking with the victims and claimed to be a  
9 16-year-old boy with a 13-year-old sister. When speaking to Victim 1, defendant claimed to be  
10 from Arizona; when speaking to Victim 2, defendant claimed to be from California. Defendant  
11 initially asked for pictures of the faces of Victim 1 and Victim 2 but soon began to ask for nude  
12 images. Defendant then directed the victims to create videos and images conducting sex acts  
13 with each other. In his attempts to convince them, defendant told the victims that it was okay to  
14 "do something" with your step-sister because he was taking showers with his 13-year-old sister  
15 and "doing things with her." Victim 2 blocked defendant on Skype, LiveMe, and Snapchat.  
16 However, defendant kept finding ways to locate the victims and demanded Victim 2 to unblock  
17 him.

18 At defendant's request, Victim 1 sent a picture to defendant of Victim 1 appearing to  
19 touch, but not actually touching, Victim 2's naked penis. Victim 2 also sent photos of his nude  
20 penis to defendant at defendant's request.

21 On or about April 23, 2017, Victim 2's mother took Victim 2's phone as punishment.  
22 While Victim 2's mother possessed the phone, a notification from Snapchat alerted the mother  
23 to a message defendant sent to Victim 2. Victim 2's mother looked at some of the Snapchat  
24 messages from defendant to Victim 2. She observed that defendant sent a picture of a naked



adult male penis followed by the message of "Are you ready to fuck [Victim 1]?" The next morning, Victim 2's mother spoke with Victim 1 and Victim 2, and then contacted law enforcement to report defendant's actions.

Investigators recovered Victim 1's cell phone during the investigation and conducted a forensic examination on it. Investigators located a chat between Victim 1 and defendant using the name "Joker Smith" on ooVoo.com. The full username was joker00762@im1.oovoo.com. The chat occurred between April 21, 2017, and April 22, 2017. The following is a portion of that conversation:

<u>From</u>	<u>Comment</u>
Defendant	"y you han up"
Victim 1	"I couldn't see yo face&#xD;"
Defendant	"let me see you naked and i will"
Victim 1	"no"
Defendant	"bye"
Defendant	"im sad"
Victim 1	(Indecipherable comment) <sup>1</sup>
Defendant	"i need to cum and I want to see you so bad"
...	
Defendant	"don't be shy"
Defendant	"you going to be shy for [Victim 2]"
Victim 1	"I&apos;m about to get dressed &#xD;"
Defendant	"can I see you naked please"
Defendant	"let me see your pussy"
...	
Defendant	"let me see and you can"
Defendant	"see your not naked"
Defendant	"tyou lied"
Defendant	"you said you were naked"
Defendant	"get naked and i will"
Defendant	"both get naked and i will"
Defendant	"i don't believe you"
Defendant	"please"
Defendant	"how do i know your naked"
Defendant	"[Victim 1] get naked and i will"

<sup>1</sup> Some of the language that is indecipherable may be due to the use of emoji's (e.g. &#xD;).

1           Investigators were ultimately able to determine the user of the above-identified account  
2 used an internet protocol address registered to defendant at 6758 Erato Falls Street, Las Vegas,  
3 Nevada 89148. Investigators conducted a routine records search for defendant and learned  
4 defendant committed a similar offense in August of 2009 involving Victim 3. Victim 3 was 13-  
5 years-old and defendant coerced Victim 3 into sending sexually explicit images online, including  
6 a picture of her bare chest.

7           On December 1, 2017, law enforcement executed a search warrant at defendant's  
8 residence of XXXX Erato Falls Street, Las Vegas, Nevada 89148. During the execution of the  
9 search warrant, Las Vegas Metropolitan Police Department investigators conducted a recorded  
10 interview with defendant. Investigators advised defendant of his *Miranda* rights. Defendant  
11 waived his rights and spoke with investigators. Defendant admitted to utilizing Snapchat, Kik,  
12 Skype, Oovoo, and Stickam applications and the email address of coolboy6913@yahoo.com.  
13 Defendant also confessed to chatting with preteens and possessing child pornography. He  
14 identified his Skype user name as "joker00762".

15           Investigators located and recovered eleven devices at defendant's residence, including the  
16 property listed in Section X, Paragraph 30, Section (a) of this plea agreement. Defendant admits  
17 that he is and was the sole owner of all the recovered devices. While viewing files located on  
18 item 1, the Lenovo desktop, the Forensic Examiner located a folder called "my Oovoo." The  
19 folder contained files in which defendant, using the name "Joker Smith" and the username  
20 joker00762@im1.oovoo.com, spoke with numerous female prepubescent children approximately  
21 10 to 12-years-old. During these chats, defendant had his camera covered preventing the child  
22 from viewing him; however, defendant could view the child. In these chats, defendant directed  
23 the children to reveal themselves in lewd ways that constituted child pornography. Investigators  
24 identified Victim 4 from these chats and images. Victim 4 was 11-years-old at the time of



1 defendant's arrest. At least 788 unique images and at least 1,280 unique videos of child  
2 pornography were located on defendant's Lenovo Desktop computer. Additional images and  
3 videos of child pornography were located on five additional devices belonging to defendant,  
4 including images depicting Victims 1, 2, and 4.

5 The defendant admits that the property listed in Section X, Paragraph 30, Section (a)  
6 contained (1) any visual depiction described in Title 18, United States Code, Section 2252A, or  
7 any book, magazine, periodical, film, videotape, or other matter which contains any such visual  
8 depiction, which was produced, transported, mailed, shipped or received in violation of Title 18,  
9 United States Code, Section 2252A(a)(2) and (b) any property, real or personal, used or intended  
10 to be used to commit or to promote the commission of Title 18, United States Code, Section  
11 2252A(a)(2) or any property traceable to such property, and is subject to forfeiture pursuant to  
12 Title 18, United States Code, Section 2253(a)(1) and (a)(3).

## 13 VI. SENTENCING FACTORS

14 15. Discretionary Nature of Sentencing Guidelines: Defendant understands that in  
15 determining defendant's sentence, the district court is required to calculate the applicable  
16 sentencing guidelines range and to consider that range, possible departures under the sentencing  
17 guidelines, and the other sentencing factors set forth in 18 U.S.C. § 3553(a). Defendant  
18 understands that the sentencing guidelines are advisory only, that defendant cannot have any  
19 expectation of receiving a sentence within the calculated sentencing guidelines range, and that  
20 after considering the sentencing guidelines and the other § 3553(a) factors, the district court will  
21 be free to exercise its discretion to impose any sentence it finds appropriate between the  
22 mandatory minimum and up to the maximum set by statute for the crimes of conviction.

23 16. Offense Level Calculations: The parties jointly agree and stipulate that, in  
24 calculating Defendant's advisory guidelines sentencing range, the Court should use the following

base offense level and adjustments; acknowledge that these stipulations do not bind the district court; and agree that they will not seek to apply or advocate for the use of any other base offense level(s) or any other specific offense characteristics, enhancements, or reductions in calculating the advisory guidelines range:

**Count One (Victim 1):**

Base Offense Level USSG § 2G1.3(a)(3):	28
Misrepresentation of identity USSG § 2G1.3(b)(2):	+2
<u>Use of a computer USSG § 2G1.3(b)(3):</u>	<u>+2</u>
<b>Adjusted Offense Level:</b>	<b>32</b>

**Count Two (Victim 2):**

Base Offense Level USSG § 2G1.3(a)(3):	28
Misrepresentation of identity USSG § 2G1.3(b)(2):	+2
<u>Use of a computer USSG § 2G1.3(b)(3):</u>	<u>+2</u>
<b>Adjusted Offense Level:</b>	<b>32</b>

**Grouping USSG § 3D1:**

Group One – Count One (Offense Level 32) Units:	1
<u>Group Two – Count Two (Offense Level 32) Units:</u>	<u>1</u>
Total Units	2
Resulting Increase in Offense Level USSG §3D1.4	+2
<b>Total Adjusted Offense Level:</b>	<b>34</b>
<u>Pattern of Activity USSG § 4B1.5</u>	<u>+5</u>
<b>Total Combined Adjusted Offense Level:</b>	<b>39</b>

17. Reduction for Acceptance of Responsibility: Under USSG § 3E1.1(a), the USAO will recommend that defendant receive a two-level downward adjustment for acceptance of



1 responsibility unless defendant (a) fails to truthfully admit facts establishing a factual basis for the  
2 guilty pleas when defendant enters the pleas; (b) fails to truthfully admit facts establishing the  
3 amount of restitution owed when defendant enters the guilty pleas; (c) fails to truthfully admit  
4 facts establishing the forfeiture allegations when defendant enters the guilty pleas; (d) provides  
5 false or misleading information to the USAO, the Court, Pretrial Services, or the Probation  
6 Office; (e) denies involvement in the offenses or provides conflicting statements regarding  
7 defendant's involvement or falsely denies or frivolously contests conduct relevant to the offenses;  
8 (f) attempts to withdraw defendant's guilty pleas; (g) commits or attempts to commit any crime;  
9 (h) fails to appear in court; or (i) violates the conditions of pretrial release.

10 Under USSG § 3E1.1(b), if the district court determines that defendant's total offense  
11 level before operation of § 3E1.1(a) is 16 or higher, and if the USAO recommends a two-level  
12 downward adjustment pursuant to the preceding paragraph, the USAO will move for an  
13 additional one-level downward adjustment for acceptance of responsibility before sentencing  
14 because defendant communicated defendant's decision to plead guilty in a timely manner that  
15 enabled the USAO to avoid preparing for trial and to efficiently allocate its resources.

16 18. Criminal History Category. Defendant acknowledges that the district court may  
17 base defendant's sentence in part on defendant's criminal record or criminal history. The district  
18 court will determine defendant's criminal history category under the sentencing guidelines.

19 19. Additional Sentencing Information: The stipulated sentencing guidelines  
20 calculations are based on information now known to the parties. Defendant understands that  
21 both defendant and the USAO are free to (a) supplement the facts in this agreement by supplying  
22 relevant information to the U.S. Probation and Pretrial Services Offices and the district court  
23 regarding the nature, scope, and extent of defendant's criminal conduct and any aggravating or  
24 mitigating facts or circumstances; and (b) correct any and all factual misstatements relating to the

1 district court's sentencing guidelines calculations and determination of sentence. While this  
2 paragraph permits both the USAO and defendant to submit full and complete factual  
3 information to the U.S. Probation and Pretrial Services Offices and the district court, even if that  
4 factual information may be viewed as inconsistent with the facts agreed to in this agreement, this  
5 paragraph does not affect defendant's and the USAO's obligations not to contest the facts agreed  
6 to in this agreement. Good faith efforts to provide truthful information or to correct factual  
7 misstatements shall not be grounds for defendant to withdraw defendant's guilty pleas.

8 Defendant acknowledges that the U.S. Probation Office may calculate the sentencing  
9 guidelines differently and may rely on additional information it obtains through its investigation.  
10 Defendant also acknowledges that the district court may rely on this and other additional  
11 information as it calculates the sentencing guidelines range and makes other sentencing  
12 determinations, and the district court's reliance on such information shall not be grounds for  
13 defendant to withdraw defendant's guilty pleas.

## 14 VII. POSITIONS REGARDING SENTENCING

15 20. The USAO will recommend that the district court sentence defendant within the  
16 advisory guideline range as determined by the district court. Defendant may argue for a  
17 downward variance pursuant to 18 U.S.C. § 3553.

18 21. Defendant acknowledges that the district court does not have to follow the  
19 recommendation of either party.

20 22. Notwithstanding its agreement to recommend a sentence as described above, the  
21 USAO reserves its right to defend any lawfully imposed sentence on appeal or in any post-  
22 conviction litigation.

23 23. If defendant commits any act that results in the Court finding that defendant is  
24 not entitled to a downward adjustment for acceptance of responsibility, the USAO is entitled to



1 argue for any sentence it deems appropriate under 18 U.S.C. § 3553(a). In any such event,  
2 Defendant remains bound by the provisions of this agreement and shall not have the right to  
3 withdraw defendant's guilty pleas.

#### 4 VIII. WAIVER OF CONSTITUTIONAL RIGHTS

5 24. Defendant understands that by pleading guilty, defendant gives up the following  
6 rights:

- 7 a. The right to persist in a plea of not guilty;
- 8 b. The right to a speedy and public trial by jury;
- 9 c. The right to be represented by counsel—and if necessary have the court  
10 appoint counsel—at trial. Defendant understands, however, that, defendant retains the right to  
11 be represented by counsel—and if necessary have the court appoint counsel—at every other stage  
12 of the proceeding;
- 13 d. The right to be presumed innocent and to have the burden of proof placed  
14 on the USAO to prove defendant guilty beyond a reasonable doubt;
- 15 e. The right to confront and cross-examine witnesses against defendant;
- 16 f. The right to testify and to present evidence in opposition to the charges,  
17 including the right to compel the attendance of witnesses to testify;
- 18 g. The right not to be compelled to testify, and, if defendant chose not to  
19 testify or present evidence, to have that choice not be used against defendant; and
- 20 h. The right to pursue any affirmative defenses, Fourth Amendment or Fifth  
21 Amendment claims, and any other pretrial motions that have been filed or could be filed.

22 25. Understanding that the investigating agency has in its possession digital devices  
23 and/or digital media seized from defendant, defendant waives any right to the return of digital  
24 data contained on those digital devices and/or digital media and agrees that if any of these

1 digital devices and/or digital media are returned to defendant, the agency may delete all digital  
2 data from those digital devices and/or digital media before they are returned to defendant.

3 **IX. WAIVER OF APPELLATE RIGHTS**

4 26. Waiver of Appellate Rights. Defendant knowingly and expressly waives: (a) the  
5 right to appeal any sentence imposed within or below the applicable Sentencing Guideline range  
6 as determined by the district court; (b) the right to appeal the manner in which the district court  
7 determined that sentence on the grounds set forth in 18 U.S.C. § 3742; and (c) the right to appeal  
8 any other aspect of the conviction, including but not limited to the constitutionality of the  
9 statutes of conviction; any other aspect of the sentence; and any order of restitution or forfeiture.

10 27. Defendant reserves only the right to appeal any portion of the sentence that is an  
11 upward departure or variance from the applicable Sentencing Guideline range as determined by  
12 the district court.

13 28. Waiver of Post-Conviction Rights. Defendant also knowingly and expressly  
14 waives all collateral challenges, including any claims under 28 U.S.C. § 2255, to defendant's  
15 conviction, sentence, and the procedure by which the district court adjudicated guilt and  
16 imposed sentence, except non-waivable claims of ineffective assistance of counsel.

17 29. Preservation of Evidence: Defendant acknowledges that the USAO and the  
18 agencies investigating this case are not obligated or required to preserve any evidence obtained in  
19 the investigation of this case.

20 **X. FORFEITURE**

21 30. The defendant knowingly and voluntarily:

22 a. Agrees to the district court imposing the civil judicial forfeiture or the  
23 criminal forfeiture of:

24 i. Lenovo Desktop Computer, SN: ES11584791;



- ii. HP Desktop Computer, SN: CNH7310662;
- iii. Samsung S7 Edge Cell Phone, IMEI: 357751075148178;
- iv. Samsung GTP511TS Tablet, SN: R32C7038AYL;
- v. Western Digital External Hard Drive, SN: WCC4N2RV7FFI; and
- vi. HP 15-G23IDS Laptop Computer, SN: CND51000FT

(all of which constitutes property);

b. Agrees to the abandonment, the civil administrative forfeiture, the civil judicial forfeiture, or the criminal forfeiture of the property;

c. Abandons or forfeits the property to the United States;

d. Relinquishes all possessory rights, ownership rights, and all rights, titles, and interests in the property;

e. Waives defendant's right to any abandonment proceedings, any civil administrative forfeiture proceedings, any civil judicial forfeiture proceedings, or any criminal forfeiture proceedings of the property (proceedings);

f. Waives service of process of any and all documents filed in this action or any proceedings concerning the property arising from the facts and circumstances of this case;

g. Waives any further notice to defendant, defendant's agents, or defendant's attorney regarding the abandonment or the forfeiture and disposition of the property;

h. Agrees not to file any claim, answer, petition, or other documents in any proceedings concerning the property; agrees not to contest, or to assist any other person or entity in contesting, the forfeiture; and agrees to withdraw immediately any claim, answer, petition, or other documents in any proceedings;

i. Waives the statute of limitations, the CAFRA requirements, Fed. R. Crim. P. 7, 11, 32.2, and 43(a), including, but not limited to, forfeiture notice in the charging

1 document, the court advising defendant of the forfeiture at the change of plea, the court having a  
2 forfeiture hearing, the court making factual findings regarding the forfeiture, the court failing to  
3 announce the forfeiture at sentencing, and all constitutional requirements, including but not  
4 limited to, the constitutional due process requirements of any proceedings concerning the  
5 property;

6 j. Waives defendant's right to a jury trial on the forfeiture of the property;

7 k. Waives all constitutional, legal, and equitable defenses to the forfeiture or  
8 abandonment of the property in any proceedings, including, but not limited to, (1) constitutional  
9 or statutory double jeopardy defenses and (2) defenses under the Excessive Fines or Cruel and  
10 Unusual Punishments Clauses of the Eighth Amendment to the United States Constitution;

11 l. Agrees to the entry of an Order of Forfeiture of the property to the United  
12 States;

13 m. Waives the right to appeal any Order of Forfeiture;

14 n. Agrees the property is forfeited to the United States;

15 o. Agrees and understands the abandonment, the civil administrative  
16 forfeiture, the civil judicial forfeiture, or the criminal forfeiture of the property shall not be  
17 treated as satisfaction of any assessment, fine, restitution, cost of imprisonment, or any other  
18 penalty the Court may impose upon defendant in addition to the abandonment or the forfeiture;

19 p. Agrees and understands the USAO may amend the forfeiture order at any  
20 time to add subsequently located property or substitute property pursuant to Fed. R. Crim. P.  
21 32.2(b)(2)(C) and 32.2(e);

22 q. Acknowledges that the amount of the forfeiture may differ from, and may  
23 be significantly greater than or less than, the amount of restitution; and  
24



1           r.       Agrees to take all steps as requested by the USAO to pass clear title of the  
 2 property to the United States and to testify truthfully in any judicial forfeiture proceedings.  
 3 Defendant understands and agrees that the property represents proceeds and/or facilitating  
 4 property of illegal conduct and is forfeitable. Defendant shall provide the USAO with a full and  
 5 complete financial disclosure statement under penalty of perjury within 10 days of executing the  
 6 plea agreement. The financial statement shall disclose to the USAO all of assets and financial  
 7 interests valued at more than \$1,000. Defendant understands these assets and financial interests  
 8 include all assets and financial interests that defendant has an interest, direct or indirect, whether  
 9 held in defendant's name or in the name of another, in any property, real or personal. Defendant  
 10 shall also identify all assets valued at more than \$1,000 which defendant has transferred to third  
 11 parties or diverted from defendant directly to third parties, since April 24, 2017, including the  
 12 location of the assets and the identity of any third party.

13           s.       The defendant admits the property is (1) any property, real or personal, that  
 14 was used or intended to be used to commit or to facilitate the commission of 18 U.S.C. § 2422(b)  
 15 and (2) any property, real or personal, used or intended to be used to commit or to facilitate the  
 16 commission of 18 U.S.C. § 2422(b), and is subject to forfeiture pursuant to 18 U.S.C. §  
 17 2428(a)(1) and 18 U.S.C. § 2428(b)(1)(A) with 28 U.S.C. § 2461(c).

#### 18           **XI. RESULT OF WITHDRAWAL OF GUILTY PLEAS** 19           **OR VACATUR/REVERSAL/SET-ASIDE OF CONVICTIONS**

20           31.    Consequence of withdrawal of guilty pleas: Defendant agrees that if, after entering  
 21 guilty pleas pursuant to this agreement, defendant seeks to withdraw and succeeds in  
 22 withdrawing defendant's guilty pleas on any basis other than a claim and finding that entry into  
 23 this agreement was involuntary, then (a) the USAO will be relieved of all of its obligations under  
 24 this agreement and (b) should the USAO choose to pursue any charge that was either dismissed  
 or not filed as a result of this agreement, then (i) any applicable statute of limitations will be

1 tolled between the date of defendant's signing of this agreement and the filing commencing any  
2 such action; and (ii) defendant waives and gives up all defenses based on the statute of  
3 limitations, any claim of pre-indictment delay, or any speedy trial claim with respect to any such  
4 action, except to the extent that such defenses existed as of the date of defendant's signing this  
5 agreement.

6 32. Consequence of vacatur, reversal, or set-aside: Defendant agrees that if any count  
7 of conviction is vacated, reversed, or set aside, the USAO may: (a) ask the district court to  
8 resentence defendant on any remaining counts of conviction, with both the USAO and  
9 defendant being released from any stipulations regarding sentencing contained in this agreement;  
10 (b) ask the district court to void the entire plea agreement and vacate defendant's guilty pleas on  
11 any remaining counts of conviction, with both the USAO and defendant being released from all  
12 their obligations under this agreement; or (c) leave defendant's remaining convictions, sentence,  
13 and plea agreement intact. Defendant agrees that the choice among these three options rests in  
14 the exclusive discretion of the USAO, and that, should the USAO choose to pursue any charge  
15 that was either dismissed or not filed as a result of this agreement, then (i) any applicable statute  
16 of limitations will be tolled between the date of defendant's signing of this agreement and the  
17 filing commencing any such action; and (ii) defendant waives and gives up all defenses based on  
18 the statute of limitations, any claim of pre-indictment delay, or any speedy trial claim with  
19 respect to any such action, except to the extent that such defenses existed as of the date of  
20 defendant's signing this agreement.

## 21 XII. BREACH OF AGREEMENT

22 33. Defendant agrees that if, at any time after this agreement becomes effective,  
23 defendant knowingly violates or fails to perform any of defendant's obligations under this  
24 agreement ("a breach"), the USAO may declare this agreement breached. All of defendant's



1 obligations are material, a single breach of this agreement is sufficient for the USAO to declare a  
2 breach, and defendant shall not be deemed to have cured a breach without the express agreement  
3 of the USAO in writing. If the USAO declares this agreement breached, and the district court  
4 finds such a breach to have occurred, then: (a) if defendant has previously entered guilty pleas  
5 pursuant to this agreement, defendant will remain bound by the provisions of this agreement and  
6 will not be able to withdraw the guilty pleas, and (b) the USAO will be relieved of all its  
7 obligations under this agreement.

8 34. Following the Court's finding of a knowing breach of this agreement by defendant,  
9 should the USAO choose to pursue any charge that was either dismissed or not filed as a result  
10 of this agreement, then:

11 a. Defendant agrees that any applicable statute of limitations is tolled between  
12 the date of defendant's signing of this agreement and the filing commencing any such action.

13 b. Defendant waives and gives up all defenses based on the statute of  
14 limitations, any claim of pre-indictment delay, or any speedy trial claim with respect to any such  
15 action, except to the extent that such defenses existed as of the date of defendant's signing this  
16 agreement.

17 c. Defendant agrees that: (i) any statements made by defendant, under oath,  
18 at the guilty plea hearing (if such a hearing occurred prior to the breach); (ii) the agreed to factual  
19 basis statement in this agreement; and (iii) any evidence derived from such statements, shall be  
20 admissible against defendant in any such action against defendant, and defendant waives and  
21 gives up any claim under the United States Constitution, any statute, Federal Rule of Evidence  
22 410, Federal Rule of Criminal Procedure 11(f), or any other federal rule, that the statements or  
23 any evidence derived from the statements should be suppressed or are inadmissible.

1                                   XIII. COURT AND UNITED STATES PROBATION  
2                                   AND PRETRIAL SERVICES OFFICE NOT PARTIES.

3           35.     Defendant understands that the Court and the U.S. Probation and Pretrial  
4     Services Office are not parties to this agreement and need not accept any of the USAO's  
5     sentencing recommendations or the parties' agreements to facts or sentencing factors.

6           36.     Defendant understands that both defendant and the USAO are free to argue on  
7     appeal and collateral review that the district court's sentencing guidelines calculations and the  
8     sentence it chooses to impose are not error.

9           37.     Defendant understands that even if the district court ignores any sentencing  
10    recommendation, finds facts or reaches conclusions different from those agreed to by the parties,  
11    or imposes any sentence up to the maximum established by statute, defendant cannot, for that  
12    reason, withdraw defendant's guilty pleas, and defendant will remain bound to fulfill all  
13    defendant's obligations under this agreement. Defendant understands that no one—not the  
14    prosecutor, defendant's attorney, or the Court—can make a binding prediction or promise  
15    regarding the sentence defendant will receive, except that it will be within the statutory  
16    maximum.

17                           XIV. ADDITIONAL ACKNOWLEDGMENTS

18       38.     The Defendant acknowledges that:

19           a.     Defendant read this agreement and defendant understands its terms and  
20     conditions.

21           b.     Defendant had adequate time to discuss this case, the evidence, and this  
22     agreement with defendant's attorney.

23           c.     Defendant carefully and thoroughly discussed all terms of this agreement  
24     with defendant's attorney.



1           d. Defendant understands the terms of this agreement and voluntarily agrees  
2 to those terms.

3           e. Defendant has discussed with defendant's attorney the following: the  
4 evidence; defendant's rights; possible pretrial motions that might be filed; possible defenses that  
5 might be asserted either prior to or at trial; the sentencing factors set forth in 18 U.S.C. 3553(a);  
6 the relevant sentencing guidelines provisions; and consequences of entering into this agreement.

7           f. The representations contained in this agreement are true and correct,  
8 including the factual basis for defendant's offenses set forth in this agreement.

9           g. Defendant was not under the influence of any alcohol, drug, or medicine  
10 that would impair defendant's ability to understand the agreement when defendant considered  
11 signing this agreement and when defendant signed it.

12           39. Defendant understands that defendant alone decides whether to plead guilty or go  
13 to trial, and acknowledges that defendant has decided to enter defendant's guilty pleas knowing  
14 of the charges brought against defendant, defendant's possible defenses, and the benefits and  
15 possible detriments of proceeding to trial.

16           40. Defendant understands that no promises, understandings, or agreements other  
17 than those set forth in this agreement have been made or implied by defendant, defendant's  
18 attorney, or the USAO, and no additional promises, agreements, or conditions shall have any  
19 force or effect unless set forth in writing and signed by all parties or confirmed on the record  
20 before the district court.

21           41. Defendant acknowledges that defendant decided to plead guilty voluntarily and  
22 that no one threatened, coerced, or forced defendant to enter into this agreement.

42. Defendant is satisfied with the representation of defendant's attorney, and defendant is pleading guilty because defendant is guilty of the charges and chooses to take advantage of the promises set forth in this agreement and for no other reason.

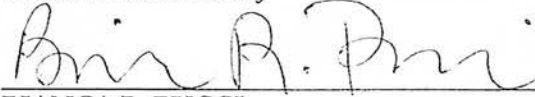
**XV. PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING**

43. The parties agree that this agreement will be considered part of the record of defendant's guilty plea hearing as if the entire agreement had been read into the record of the proceeding.

AGREED AND ACCEPTED

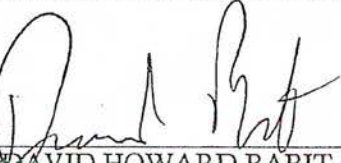
UNITED STATES ATTORNEY'S OFFICE  
FOR THE DISTRICT OF NEVADA

NICHOLAS A. TRUTANICH  
United States Attorney



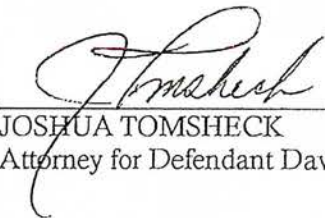
BIANCA R. PUCCI  
Assistant United States Attorney

10/5/2020  
Date



DAVID HOWARD BABIT  
Defendant

9/21/2020  
Date



JOSHUA TOMSHECK  
Attorney for Defendant David Howard Babit

9/21/2020  
Date



# Attachment A

NICHOLAS A. TRUTANICH  
United States Attorney  
District of Nevada  
Nevada Bar Number 13644  
BIANCA R. PUCCI  
Assistant United States Attorney  
District of Nevada  
501 Las Vegas Blvd. South, Suite 1100  
Las Vegas, Nevada 89101  
(702) 388-6336  
[Bianca.Pucci@usdoj.gov](mailto:Bianca.Pucci@usdoj.gov)

*Representing the United States of America*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
DAVID HOWARD BABIT,  
  
Defendant.

Case No. 2:20-cr-

**Criminal Information**

Count One: *Coercion and Enticement*  
18 U.S.C. § 2422(b)

Count Two: *Coercion and Enticement*  
18 U.S.C. § 2422(b)

**THE UNITED STATES ATTORNEY FOR THE DISTRICT OF NEVADA**

**CHARGES THAT:**

**COUNT ONE  
Coercion and Enticement**

Beginning on a date unknown, and continuing to on or about April 24, 2017, in the  
State and Federal District of Nevada,

**DAVID HOWARD BABIT,**  
  
defendant herein, while using a facility or means of interstate and foreign commerce, did



1 knowingly, and attempted to, persuade, induce, entice, and coerce, Victim 1, who had not  
2 attained the age of 18 years, to engage in prostitution or any sexual activity for which any  
3 person could be charged with a criminal offense, to wit: *Sexual Exploitation of Children*, in  
4 violation of 18 U.S.C. § 2251(a), all in violation of 18 U.S.C. § 2422(b).

5 **COUNT TWO**  
6 **Coercion and Enticement**

7 Beginning on a date unknown, and continuing to on or about April 24, 2017, in the  
8 State and Federal District of Nevada,

9 **DAVID HOWARD BABIT,**

10 defendant herein, while using a facility or means of interstate and foreign commerce, did  
11 knowingly, and attempted to, persuade, induce, entice, and coerce, Victim 2, who had not  
12 attained the age of 18 years, to engage in prostitution or any sexual activity for which any  
13 person could be charged with a criminal offense, to wit: *Sexual Exploitation of Children*, in  
14 violation of 18 U.S.C. § 2251(a), all in violation of 18 U.S.C. § 2422(b).

15 **FORFEITURE ALLEGATION**  
16 **Coercion and Enticement**

17 1. The allegations contained in Counts One and Two of this Criminal Indictment  
18 are hereby realleged and incorporated herein by reference for the purpose of alleging forfeiture  
19 pursuant to 18 U.S.C. § 2428(a)(1) and 18 U.S.C. § 2428(b)(1)(A) with 28 U.S.C. § 2461(c).

20 2. Upon conviction of any of the felony offenses charged in Counts One and Two of  
21 this Criminal Indictment,

22 **DAVID HOWARD BABIT,**

23 defendant herein, shall forfeit to the United States of America, any property, real or  
24 personal, that was used or intended to be used to commit or to facilitate the commission of 18

1 U.S.C. § 2422(b):

2 defendant herein, shall forfeit to the United States of America, any property, real or  
3 personal, used or intended to be used to commit or to facilitate the commission of 18 U.S.C. §

4 2422(b):

- 5 a. Lenovo Desktop Computer, SN: ES11584791;
- 6 b. HP Desktop Computer, SN: CNH7310662;
- 7 c. Samsung S7 Edge Cell Phone, IMEI: 357751075148178;
- 8 d. Samsung GTP511TS Tablet, SN: R32C7038AYL;
- 9 e. Western Digital External Hard Drive, SN: WCC4N2RV7FFI; and
- 10 f. HP 15-G23IDS Laptop Computer, SN: CND51000FT.

11 3. All pursuant to 18 U.S.C. §§ 2422(b) and 2428(a)(1) and 18 U.S.C. §  
12 2428(b)(1)(A) with 28 U.S.C. § 2461(c).

13  
14 **DATED** this \_\_\_\_ day of May, 2020.

15 NICHOLAS A. TRUTANICH  
16 United States Attorney

17  
18 \_\_\_\_\_  
19 BIANCA R. PUCCI  
20 Assistant United States Attorney  
21  
22  
23  
24





# Nevada State Board of Pharmacy

985 Damonte Ranch Parkway, Suite 206 • Reno, NV 89521

(775) 850-1440 • FAX (775) 850-1444

E-mail: [bkandt@pharmacy.nv.gov](mailto:bkandt@pharmacy.nv.gov) • Web Page: [bop.nv.gov](http://bop.nv.gov)

August 4, 2021

VIA CERTIFIED U.S. MAIL AND ELECTRONIC MAIL TO: [kingdb@aol.com](mailto:kingdb@aol.com)

David Howard Babit  
6758 Erato Falls Street  
Las Vegas, NV 89148

**Re: Suspension of Certificate of Registration No. PT10272**

Dear Mr. Babit:

The Nevada State Board of Pharmacy (Board) has been notified by the U.S. Department of Justice that you have pled guilty to two felony counts of coercion and enticement of a minor to engage in sexual activity in violation of 21 U.S.C. § 2422(b) (documentation enclosed).

Please be advised that pursuant to NRS 639.2121 your plea agreement operates as an immediate suspension of your Certificate of Registration No. PT10272 with the Board.

You may request a hearing before the Board to contest the suspension of your registration by submitting a written request to the Board's Reno office, located at 985 Damonte Ranch Parkway – Suite 206, Reno, NV 89521.

Please be aware that the forgoing does not preclude a formal investigation or filing of an accusation pursuant to NRS 639.241. If you have any questions, please do not hesitate to contact me at 775-850-1440 or [bkandt@pharmacy.nv.gov](mailto:bkandt@pharmacy.nv.gov).

Best regards,

Brett Kandt  
General Counsel  
Nevada State Board of Pharmacy

SE

## COMPLETE THIS SECTION

Items 1, 2, and 3.  
name and address on the reverse  
can return the card to you.  
card to the back of the mailpiece,  
front if space permits.  
addressed to:

## COMPLETE THIS SECTION ON DELIVERY

A. Signature  
**X** ☐ Agent  
☐ Addressee  
B. Received by (Printed Name) C. Date of Delivery  
D. Is delivery address different from item 1? ☐ Yes  
If YES, enter delivery address below: ☐ No

3. Service Type  
☐ Adult Signature  
☐ Adult Signature Restricted Delivery  
☒ Certified Mail®  
☐ Certified Mail Restricted Delivery  
☐ Collect on Delivery  
☐ Priority Mail Express®  
☐ Registered Mail™  
☐ Registered Mail Restricted Delivery  
☒ Signature Confirmation™  
☐ Signature Confirmation Restricted Delivery

Exhibit D

David Howard Babit  
5758 Erato Falls Street  
Las Vegas, NV 89148

9171 9690 0935 0250 5408 41

90 0935 0250 5408 41

30-

**BEFORE THE NEVADA STATE BOARD OF PHARMACY**

**NEVADA STATE BOARD OF PHARMACY,**

**Petitioner,  
v.**

**SALVADOR BORROMEO III, MD,  
Certificate of Registration No. CS09487,**

**Respondent.**

**Case Nos. 20-210-CS-S**

**STIPULATION AND ORDER**

Courtney K. Lee, General Counsel for Petitioner the Nevada State Board of Pharmacy ("Board"), and Respondent Salvador Borromeo III, MD ("Borromeo"), Certificate of Registration No. CS09487, by and through counsel, Larry J. Weinstein, Esq., **HEREBY STIPULATE AND AGREE THAT:**

1. The Board has jurisdiction over Respondent and this matter.
2. On or about August 13, 2021, Board Staff served Respondent Borromeo with the Notice of Intended Action and Accusation ("Accusation") on file in this matter together with the Statement to Respondent and Notice of Hearing.
3. On or about September 27, 2021, Respondent Borromeo filed an Answer and Notice of Defense ("Answer") through counsel.
4. Respondent Borromeo is fully aware of the right to seek the advice of counsel in this matter and obtained the advice of counsel prior to entering into this Stipulation.
5. Respondent Borromeo is aware of the right to a hearing on the matters alleged in the Accusation, the right to reconsideration, the right to appeal and any and all other rights that may be accorded pursuant to NRS Chapter 233B, Nevada Administrative Procedure Act Chapter 622A, Administrative Procedure Before Certain Regulatory Bodies, and NRS 639, Nevada Pharmacy Act.
6. Conditioned on the acceptance of this Stipulation by the Board, and in full exception of the right to challenge any determination that Respondent Borromeo



with any provision of this Stipulation, Respondent hereby freely and voluntarily waives his right to a hearing, reconsideration, appeal and any and all other rights related to this action that may be accorded to him by NRS Chapter 233B, Nevada Administrative Procedure Act, NRS Chapter 622A, Administrative Procedure Before Certain Regulatory Bodies, and NRS Chapter 639, Nevada Pharmacy Act.

7. Respondent Borromeo admits that evidence exists, and that Board staff prosecuting this case could present such evidence at an administrative hearing, to establish a factual basis for certain of the violations alleged in the Accusation. However, Borromeo asserts that he relied upon the representations of others, and that his actions were not done with nefarious purpose, but that Respondent Borromeo:

A. Unlawfully prescribed controlled substances and/or dangerous drugs without a bona fide patient practitioner relationship in violation of NAC 639.945(1)(n) and (o); and

B. Permitted an employee or staff, who did not have an active controlled substance registration from the Board, to independently possess, administer, furnish or dispense controlled substances under his credentials, which constituted unprofessional conduct contrary to the public interest, in violation of NRS 453.226, NRS 453.321, NRS 453.381(1), NRS 453.401(1), NRS 639.100, NRS 639.235, NRS 639.2813(1), NAC 453.440(1)(c), NAC 639.945, 21 CFR § 1306.03, 21 CFR § 1306.04 and/or 21 CFR § 1306.05.

8. Those violations are plead with particularity in the Accusation, and are grounds for action pursuant to NRS 453.236, NRS 453.241, NRS 639.210 and/or NRS 639.255.

9. In order to resolve this matter without incurring any further costs or the expense associated with a hearing, and with Borromeo not conceding or admitting to such allegations, the board and Borromeo stipulate to the following penalties and conditions. The registration of Respondent Borromeo, MD, Certificate of Registration No. CS09487, is hereby revoked. The

revocation is stayed, and Borromeo is placed on probation for two (2) years from the effective date of this signed Stipulation and Order, subject to the following conditions. Borromeo shall:

- A. Accept this Stipulation and Order as a public reprimand regarding Respondent Borromeo's duties and responsibilities as a prescribing practitioner;
- B. Pay a fine of Five-Thousand Dollars (\$5,000.00) for the alleged violations;
- C. Pay Two-Thousand Dollars (\$2,000.00) to partially reimburse the Board for recoverable attorney's fees and costs incurred in investigating and prosecuting this matter;
- D. Complete four (4) hours of additional continuing education regarding proper prescribing of controlled substances and dangerous drugs to be completed and certificate to be forwarded to the Board within ninety (90) days of this Order; and
- E. Comply with all federal and state statutes and regulations regarding controlled substances and dangerous drugs, and have no additional charges filed against him while on probation.

10. Upon successful completion of probation, Respondent Borromeo's Certificate of Registration No. CS09487 will be fully restored, conditioned upon Borromeo's underlying medical license and DEA registration being active and in good standing.

11. Any failure by Respondent to comply with the terms of this Order may result in issuance by the Executive Secretary of an order to show cause pursuant to NAC 639.965 directing that Respondent appear before the Board at the next regularly-scheduled meeting for a show cause hearing. If such a hearing results in a finding of a violation of this Order by Respondent, the Board may lift the stay of revocation, and immediately revoke Borromeo's Certificate of Registration No. CS09487. The Board may impose additional discipline upon that Respondent consistent with the provisions of NRS Chapter 453 and/or Chapter 639.

12. General Counsel will present this Stipulation to the Board for approval pursuant to NRS 622.330 at the Board's regularly scheduled public meeting on October 13, 2021.



Respondent will appear live, telephonically or *via Zoom* at the meeting to answer questions from the Board Members and/or Board Staff. The Board Members and Staff may discuss and deliberate regarding this Stipulation, even if Respondent or counsel are not present at the meeting.

13. The Board has discretion to accept this Stipulation, but it is not obligated to do so. If this Stipulation is approved by the Board, it shall be a public record pursuant to NRS 622.330 and shall be reported to the National Practitioner Data Bank pursuant to 42 USC § 1396r-2 and 45 CFR Part 60.

14. If the Board rejects any part or all of this Stipulation, and unless they reach an alternative agreement on the record during the hearing, the parties agree that a full hearing on the merits of this matter may be heard by the Board at a later date. The terms and admissions herein may not be used or referred to in a full hearing on the merits of this matter.

15. Upon approval of this Stipulation by the Board, Respondent shall pay the fines agreed to herein by *cashier's check* or *certified check* or *money order* made payable to "State of Nevada, Office of the Treasurer," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within thirty (30) of the effective date of this Order.

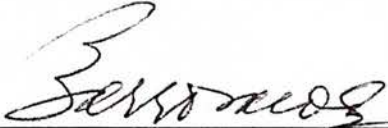
16. Upon approval of this Stipulation by the Board, Respondent shall pay the attorney's fees and costs agreed to herein by *cashier's check* or *certified check* or *money order* made payable to "Nevada State Board of Pharmacy," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within thirty (30) of the effective date of this Order.

17. Subject to the approval of this Stipulation by the Board, the Board and Respondent agree to release oneanother from any and all additional claims arising from the facts set forth in the Accusation on file herein, whether known or unknown that might otherwise have existed on or before the effective date of this Order.

Respondent has fully considered the charges and allegations contained in the *Notice of Intended Action and Accusation* in this matter, and the terms of this Stipulation, and have freely and voluntarily agreed to the terms set forth herein, and waived certain rights, as stated herein.

AGREED:

Signed this 28 day of September, 2021



SALVADOR BORROMEO III, MD  
Certificate of Registration No. CS09487

APPROVED AS TO FORM AND  
CONTENT this 28th day of September,  
2021

Signed this \_\_\_\_ day of September, 2021



LARRY J. WEINSTEEN, ESQ.  
Counsel for Respondent Salvador  
Borromeo, III, MD

COURTNEY K. LEE, ESQ.  
General Counsel  
Nevada State Board of Pharmacy



**ORDER**

The Nevada State Board of Pharmacy hereby adopts the foregoing Stipulation as to Respondent Salvador Borromeo, III, MD, Certificate of Registration No. CS09487, in Case No. 20-210-CS-S and hereby orders that the terms of the foregoing Stipulation be made effective upon execution below.

**IT IS SO ORDERED.**

Entered this \_\_\_\_ day of October, 2021.

\_\_\_\_\_  
Helen Park, President  
Nevada State Board of Pharmacy

VGM Fulfillment - Phoenix, Arizona Employee List

Adriana Lizarraga, Alma  
Aldas Ortega, Aracely  
Alibar Cordoba, Marbisa  
Amaya, Mayte  
Armenta, Dustin  
Barrera Vasquez, Maria  
Borggreen, Antonia  
Cabrera, Reina  
Cano, Christian  
Carmona, Raul  
Chavarin, Angel  
Chavarin, Esmeralda  
Colindres, Madeline  
Cruz Martinez, Damaris  
Diaz De Leon, Carmen  
Domeyer, Tony A  
Dominguez, Alma  
Fard, Ashanti  
Fonseca, Silvia  
Garcia, Veronica  
Gordon, Kyle C  
Gutierrez Martinez, Mariellys B  
Hernandez, Artemisa  
Jacobo, Eglá  
Jimenez, Jose  
Kiyuna, Maria  
Lane, Mark  
Leistner, Thomas J  
Lopez Castillo, Omar  
Mandujano, Irie  
Martinez, Ana  
Martinez, Rosalba  
Masters, Isaac  
Merchant, Sheldon M  
Moreno, Devina  
Osuna, Cruz D  
Perez, Armida  
Perez, Evaristo  
Perry, Louis  
Portillo, Rene  
Ramos, Vanessa  
Rivera Ayala, Alba  
Robles, Gabriela  
Salazar Lopez, Olga  
Timson Koger, Shannon R  
Velasco, Jonhas  
White, Janita



**VGM Fulfillment - Nashville, Tennessee Employee List**

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Allen, Kelly  
Aquino Ramos, Irma  
Barbee, Frederick  
Boyd, Brianna  
Caple, Damon J  
Castro Iriarte, Francis J  
Church, Imani  
Contreras, Gustavo  
Cordero Blanco, Yusnelis  
Davis, Trevone  
De Pool Moran, Silvia C  
Dowling, Lisa  
Flowers, Daniel  
Gonzalez, Delma  
Hawkins, Aaron  
Hernandez, Jose  
Hernandez, Marlene  
Hill, Sheila A  
Howard, Ruqayyah  
Jett, Anthony  
Johnson, Dylan  
Jones, Adam  
Lima, Michael  
Lopez, Nancy  
McClain, LeTisha  
Mickes, William  
Moses, Chelsea  
Moss, Natasha  
Murphy, David E  
Oviedo, Angie  
Owings, Tiajah  
Pannell, Phillip  
Perez Roman, Livanía  
Powers, Olga  
Prado, Francisco  
Reid, John C  
Reyes Cribas, Karen  
Richardson, Anthony  
Rincon Camacho, Astrid C  
Rodriguez Fuentes, Yaunelys  
Ronek, Quinn E  
Sanders, Vincent  
Santos Alas, Patricia E  
Somma, Eric N  
Tyler, Larry  
Underwood, Kesha  
Underwood, Lela  
Underwood, Manuel  
Wright III, Lonzo A

APR 26 2019

NEVADA STATE BOARD  
OF PHARMACY

## BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-039-RPH-S
	)	
Petitioner,	)	
v.	)	
	)	ORDER OF REINSTATEMENT
JOSE FERRAN, RPH,	)	
Certificate of Registration No. 16283,	)	
	)	
Respondent.	)	
	/	

The Nevada State Board of Pharmacy (Board) heard this matter on March 7, 2018, rendered a decision, and entered an Order on March 18, 2018, revoking the certificate of registration as a pharmacist of Respondent Jose Ferran, R.Ph. (Ferran), Certificate of Registration No. 16283, pursuant to NRS 639.255(1)(d). Paragraph 10(d) of the Order stated that:

Ferran may not apply for reinstatement of his registration for a period of one year. In the event Ferran applies for reinstatement, or for any other license, registration or certificate with the Board, he shall appear before the Board to answer questions and give testimony regarding his application or petition, his compliance with the Order, and the facts and circumstances underlying this matter.

Ferran petitioned for reinstatement of his certificate of registration pursuant to NRS 639.257. On April 11, 2019, Ferran appeared before the Board to answer questions and give testimony regarding his petition, his compliance with the Order, and the facts and circumstances underlying this matter.

**IT IS HEREBY ORDERED** that Ferran's Certificate of Registration No. 16283 be reinstated effective immediately subject to the following terms, conditions and restrictions:

1. Ferran is placed on probation for two (2) years.
2. Ferran is prohibited from working as a pharmacist in charge/pharmacy manager in any facility licensed by the Board while on probation.
3. Ferran shall not work more that ninety (90) hours in a two-week period while on probation.

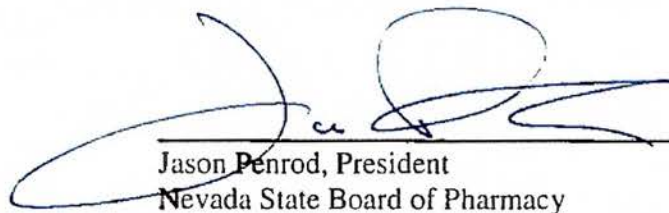


4. Ferran shall obtain prior authorization from the Executive Secretary prior to commencing any employment as a pharmacist, and shall notify any employer of his past discipline, while on probation.
5. Ferran shall not compound for one (1) year.
6. Ferran shall contact Walmart Inc. and pay restitution within ninety (90) days of entry of this Order and produce evidence of his compliance to the Board immediately thereafter.
7. When employed as a pharmacist while on probation Ferran shall have his pharmacist in charge/pharmacy manager submit quarterly status reports on his performance to the Board.
8. Ferran shall comply with all federal and state statutes and regulations regarding controlled substances and dangerous drugs, and the practice of pharmacy, and have no additional charges filed against him while on probation.
9. If Ferran complies with the terms of his probation, at the end of the probationary period the Executive Secretary is granted authority, at his sole discretion, to terminate Ferran's probation.
10. Any failure by Ferran to comply with the terms of this Order may result in issuance by the Executive Secretary of an order to show cause directing Ferran to appear before the Board at the next regularly-scheduled meeting for a show cause hearing. If such a hearing results in a finding of a violation of this Order, the Board may impose additional discipline not inconsistent with the provisions of NRS Chapter 639.

This Order is effective on the date executed below.

**IT IS SO ORDERED.**

Signed this 25 day of April 2019.



Jason Penrod, President  
Nevada State Board of Pharmacy

## BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NOS. 17-039-RPH-S
	)	17-039-PT-A-S
Petitioner,	)	17-039-PT-B-S
v.	)	
	)	
JOSE FERRAN, RPH,	)	FINDINGS OF FACT,
Certificate of Registration No. 16283,	)	CONCLUSIONS OF LAW
	)	AND ORDER
IAN KNICKERBOCKER, PT,	)	(Jose Ferran Only)
Certificate of Registration No. PT07309,	)	
	)	
TIFFANY BUIE, PT,	)	
Certificate of Registration No. PT08743,	)	
	)	
Respondents.	)	

The Nevada State Board of Pharmacy (Board) heard this matter at its regularly scheduled meeting on Wednesday, March 07, 2018, in Reno, Nevada. S. Paul Edwards, Esq., prosecuted the case on behalf of Board Staff. Respondent Jose Ferran, R.Ph., Certificate of Registration No. 16283 (Ferran) appeared at the hearing with his counsel, Kevin C. Murphy, Esq., of Murphy Jones APC. Based on the evidence presented during the hearing, including testimonial and documentary evidence, the Board issues the following Findings of Fact, Conclusions of Law, and Order.

**FINDINGS OF FACT**

1. Before the March 7, 2018 hearing, Ferran agreed to and entered into *Stipulated Facts*, stating:

1. The Board has jurisdiction over this matter and Respondent Ferran because at the time of the events described herein, Ferran was a pharmacist registered with the Board.
2. Ferran was also designated as the pharmacist in charge (PIC)/managing pharmacist for Walmart Pharmacy #10-4557 (Walmart) at the time of the events described herein.
3. Ferran has never been licensed as a practitioner and has never been authorized to prescribe dangerous drugs in Nevada.



4. Respondents Ian Knickerbocker, PT, Certificate of Registration No. PT07309 (Knickerbocker), and Tiffany Buie, PT, Certificate of Registration No. PT08743 (Buie), were employed as pharmaceutical technicians at Walmart at the time of the events described herein.
5. While working as the PIC/managing pharmacist at Walmart, Ferran fraudulently created a total of forty-four (44) unauthorized "telephoned prescriptions" for himself, his family members, Buie and Knickerbocker's spouse.
6. The list attached hereto as Addendum A, which is incorporated herein by reference, is a summary listing the forty-four prescriptions Ferran created.
7. Ferran created those "telephone prescriptions" between September 12, 2012, and January 18, 2017.
8. Ferran created those "telephone prescriptions" by falsely indicating that Dr. Greg Dryanski was the prescribing physician on one prescription, and that Dr. Koussay Zarka was the prescriber on the other forty-three prescriptions.
9. Neither Buie nor Knickerbocker had a bona fide practitioner/patient relationship with Dr. Zarka.
10. Dr. Zarka later reviewed a copy of each of the forty-three prescriptions that Ferran fraudulently attributed to him. Dr. Zarka indicated "not authorized" on each copy and signed and dated his annotations.
11. Dr. Zarka also signed a statement indicating that he did not authorize the forty-three prescriptions at issue.
12. Ferran paid the co-pays and/or the entire price of at least some of the prescriptions he created for himself and his family using Walmart discount cards and/or billing the prescriptions to his Walmart insurance plan.
13. Buie and Knickerbocker knowingly and willfully purchased and received various dangerous drugs for their own use or their family members' use by way of the prescriptions that Ferran fabricated.

14. Buie and Knickerbocker submitted the fraudulent prescriptions Ferran created for their benefit to their respective Walmart insurance plans for payment.

15. Walmart terminated Ferran's employment in April 2017, as a result of his actions.

16. Walmart also terminated pharmaceutical technicians Buie and Knickerbocker for their participation in Ferran's fraudulent activities.

March 2, 2018, *Stipulated Facts*, on file in the above referenced action.<sup>1</sup>

2. The "Addendum A" referenced in paragraph 6 of the *Stipulated Facts* is a summary listing of the forty-four prescriptions for dangerous drugs that Ferran created.

3. At the hearing Ferran did not dispute the allegations in the *Accusation* on file in this matter and accepted the *Stipulated Facts* as the facts of this case. The Board admitted the *Stipulated Facts* and additional evidence into the record and heard argument from counsel on each party's behalf.

4. Based on the evidence and arguments presented at the hearing, the Board finds that evidence exists to support each of the factual allegations stated in the *Accusation*.

#### CONCLUSIONS OF LAW

5. The Board has jurisdiction over this matter and Respondent Ferran.<sup>ii</sup>

6. By creating multiple fraudulent prescriptions for various dangerous drugs for himself, for members of his family, and for Buie and Knickerbocker, as stated in the *Accusation* and *Stipulated Facts*, including Addendum A, Ferran violated Nevada Administrative Code (NAC) 639.945(1)(h) and (k).

7. By filling and dispensing multiple fraudulent prescriptions for various dangerous drugs for himself, for members of his family, and for Buie and Knickerbocker, as stated in the

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<sup>i</sup> Respondent's *Stipulated Facts*, as restated herein, are only for the purposes of this proceeding other proceedings in which the Nevada State Board of Pharmacy or other professional licensing agency is involved. The parties agreed in the *Stipulated Facts* that they shall not be admissible in any other criminal or civil proceeding.

<sup>ii</sup> Neither Ian Knickerbocker, PT, Certificate of Registration No. PT07309 (Knickerbocker), nor Tiffany Buie, PT, Certificate of Registration No. PT08743 (Buie), filed an Answer in response to the *Accusation* and Notice of Defense on file in this matter. The Board entered separate orders of default and revocation against them, which orders are on file.

Accusation and Stipulated Facts, including Addendum A, without a lawful prescription or authorization from a practitioner, Ferran violated NAC 639.945(1) (h) and (k).

8. By processing multiple fraudulent prescriptions for various dangerous drugs without a lawful prescription or authorization from a practitioner, and by billing those prescriptions to an insurance provider, as stated in the Accusation and Stipulated Facts, including Addendum A, Jose Ferran, R.Ph., violated NAC 639.945(1)(h) and (k).

9. Each of the foregoing violations are grounds for discipline, including revocation, pursuant to Nevada Revised Statutes (NRS) 639.210(1), (4) and (12), as well as NRS 639.255.

### ORDER

10. For each of the violations set forth above:

a. Jose Ferran's pharmacist registration, Certificate of Registration No. 16283, is hereby revoked effective immediately.

b. Ferran may not work in any facility licensed by the Board, including a pharmacy, in any capacity unless and until he has petitioned the Board for reinstatement and the Board reinstates his registration.

c. Ferran shall pay an administrative fee of One Thousand Five Hundred Dollars (\$1,500.00) to partially offset the Board's costs and expenses incurred while investigating and prosecuting this matter. Ferran shall pay the administrative fee by *cashier's check, certified check or money order* made payable to the "Nevada State Board of Pharmacy". The fee is due to the Board's Reno office located at 431 W. Plumb Lane, Reno, NV 89509, within ninety (90) days of the effective date of this Order.

d. Ferran may not apply for reinstatement of his registration for a period of one year. In the event Ferran applies for reinstatement, or for any other license, registration or certificate with the Board, he shall appear before the Board to answer questions and give testimony regarding his application or petition, his compliance with the Order, and the facts and circumstances underlying this matter.

11. Any failure by Ferran to comply with any term in this Order may result in issuance by the Executive Secretary of an order to show cause directing Ferran to appear before

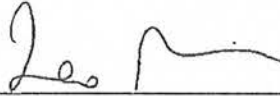


the Board at the next regularly-scheduled meeting for a show cause hearing. If such a hearing results in a finding of a violation of this Order by Ferran, the Board may impose additional discipline or take further action not inconsistent with the provisions of NRS Chapter 639. Furthermore, any failure by Ferran to pay any fine, fee, or cost ordered herein will also result in such legal action as Board Staff determines to be necessary to collect the unpaid fine, fee, or cost.

12. This Order is effective on the date executed below.

**IT IS SO ORDERED.**

Signed this 18 day of March 2018.



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Leo Basch, President  
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NOS. 17-039-RPH-S
	)	17-039-PT-A-S
Petitioner,	)	17-039-PT-B-S
v.	)	
	)	
JOSE FERRAN, RPH, .	)	STIPULATED FACTS
Certificate of Registration No. 16283,	)	(Jose Ferran Only)
	)	
IAN KNICKERBOCKER, PT,	)	
Certificate of Registration No. PT07309,	)	
	)	
TIFFANY BUIE, PT,	)	
Certificate of Registration No. PT08743,	)	
	)	
Respondents.	/	

S. Paul Edwards, Esq., General Counsel for Petitioner the Nevada State Board of Pharmacy (Board) and Jose Ferran, R.Ph., Certificate of Registration No. 16283 (Ferran), by and through his counsel, Kevin C. Murphy, Esq., of Murphy Jones APC,

**HEREBY STIPULATE AND AGREE THAT:**

1. The Board has jurisdiction over this matter and Respondent Ferran because at the time of the events described herein, Ferran was a pharmacist registered with the Board.
2. Ferran was also designated as the pharmacist in charge (PIC)/managing pharmacist for Walmart Pharmacy #10-4557 (Walmart) at the time of the events described herein.
3. Ferran has never been licensed as a practitioner and has never been authorized to prescribe dangerous drugs in Nevada.
4. Respondents Ian Knickerbocker, PT, Certificate of Registration No. PT07309 (Knickerbocker), and Tiffany Buie, PT, Certificate of Registration No. PT08743 (Buie), were employed as pharmaceutical technicians at Walmart at the time of the events described herein.

5. While working as the PIC/managing pharmacist at Walmart, Ferran fraudulently created a total of forty-four (44) unauthorized "telephoned prescriptions" for himself, his family members, Buie and Knickerbocker's spouse.

6. The list attached hereto as **Addendum A**, which is incorporated herein by reference, is a summary listing the forty-four prescriptions Ferran created.

7. Ferran created those "telephone prescriptions" between September 12, 2012, and January 18, 2017.

8. Ferran created those "telephone prescriptions" by falsely indicating that Dr. Greg Dryanski was the prescribing physician on one prescription, and that Dr. Koussay Zarka was the prescriber on the other forty-three prescriptions.

9. Neither Buie nor Knickerbocker had a bona fide practitioner/patient relationship with Dr. Zarka.

10. Dr. Zarka later reviewed a copy of each of the forty-three prescriptions that Ferran fraudulent attributed to him. Dr. Zarka indicated "not authorized" on each copy and signed and dated his annotations.

11. Dr. Zarka also signed a statement indicating that he did not authorize the forty-three prescriptions at issue.

12. Ferran paid the co-pays and/or the entire price of at least some of the prescriptions he created for himself and his family using Walmart discount cards and/or billing the prescriptions to his Walmart insurance plan.

13. Buie and Knickerbocker knowingly and willfully purchased and received various dangerous drugs for their own use or their family members' use by way of the prescriptions that Ferran fabricated.

14. Buie and Knickerbocker submitted the fraudulent prescriptions Ferran created for their benefit to their respective Walmart insurance plans for payment.

15. Walmart terminated Ferran's employment in April 2017, as a result of his actions.

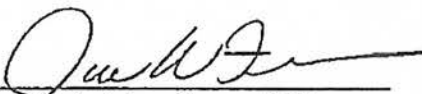


16. Walmart also terminated pharmaceutical technicians Buie and Knickerbocker for their participation in Ferran's fraudulent activities.

17. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Nevada State Board of Pharmacy or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

Respondent Jose Ferran has fully considered the factual allegations contained in the Notice of Intended Action and Accusation on file in this matter and these Stipulated Facts. He freely and voluntarily agrees to the factual statements set forth herein.

Signed this 2<sup>nd</sup> day of March 2018

  
Respondent Jose Ferran, R.Ph.  
Certificate of Registration No. 16283

# ADDENDUM A

	A	B	C	D	E	F	G	H
RX DATE	RX #	DRUG NAME	QTY	PATIENT NAME	RELATIONSHIP	PREScriBER		
<b>JOSE FERRAN - Pharmacy Manager</b>								
9/11/2012	6722740	Zithromax 200	30ml	[REDACTED]	Daughter	Dryanski, Greg		
12/17/2012	6733524	Zithromax 200	30ml	[REDACTED]	Daughter	Zarka, Koussay		
12/29/2013	6780015	Zithromax 200	30ml	[REDACTED]	Daughter	Zarka, Koussay		
9/1/2014	6817386	Zithromax 200	30ml	[REDACTED]	Daughter	Zarka, Koussay		
2/19/2016	6909285	Neo/Poly/Dex 0.1% OP SUS	1	[REDACTED]	Daughter	Zarka, Koussay		
<b>Pharmacist Jose Ferran is responsible for (5) falsified Prescriptions for [REDACTED]</b>								
6/19/2013	6756340	Azithromycin 250 mg pak	1	[REDACTED]	Brother	Zarka, Koussay		
10/20/2013	6771226	Prednisone 10mg pak	40	[REDACTED]	Brother	Zarka, Koussay		
11/16/2013	6774763	Allopurinol 300 mg	30	[REDACTED]	Brother	Zarka, Koussay		
11/27/2013	6776151	Avelox 400 mg	7	[REDACTED]	Brother	Zarka, Koussay		
1/29/2014	6784695	Prednisone 10mg pak	40	[REDACTED]	Brother	Zarka, Koussay		
3/31/2014	6794489	Prednisone 10mg pak	40	[REDACTED]	Brother	Zarka, Koussay		
7/3/2014	6808762	Prednisone 10mg pak	40	[REDACTED]	Brother	Zarka, Koussay		
10/8/2014	6823502	Methylpred 4 mg	21	[REDACTED]	Brother	Zarka, Koussay		
11/6/2014	6828058	Methylpred 4 mg	21	[REDACTED]	Brother	Zarka, Koussay		
3/12/2015	6849896	Prednisone 10mg pak	40	[REDACTED]	Brother	Zarka, Koussay		
5/5/2015	6859621	Azithromycin 250 mg pak	1	[REDACTED]	Brother	Zarka, Koussay		
5/5/2015	6859639	Fluticasone 50 MCG SPR	1	[REDACTED]	Brother	Zarka, Koussay		
6/20/2015	6867154	Azithromycin 250 mg pak	1	[REDACTED]	Brother	Zarka, Koussay		
7/17/2015	6871391	Prednisone 10mg pak	40	[REDACTED]	Brother	Zarka, Koussay		
7/29/2015	6873253	Prednisone 10mg pak	40	[REDACTED]	Brother	Zarka, Koussay		
10/11/2015	6885648	Azithromycin 250 mg pak	1	[REDACTED]	Brother	Zarka, Koussay		
11/25/2015	6893925	Allopurinol 300 mg	30	[REDACTED]	Brother	Zarka, Koussay		
8/10/2016	6939679	Prednisone 10mg pak	40	[REDACTED]	Brother	Zarka, Koussay		
11/17/2016	6957479	Azithromycin 250 mg pak	1	[REDACTED]	Brother	Zarka, Koussay		
11/17/2016	6957486	Neo/Poly/Dex 0.1% OP SUS	1	[REDACTED]	Brother	Zarka, Koussay		
11/17/2016	6957487	Fluticasone 50 MCG SPR	1	[REDACTED]	Brother	Zarka, Koussay		
<b>Pharmacist Jose Ferran is responsible for (21) falsified prescriptions for [REDACTED]</b>								
2/19/2013	6741315	Azithromycin 250 mg pak	1	[REDACTED]	Brother	Zarka, Koussay		
<b>Pharmacist Jose Ferran is responsible for (1) falsified prescription for [REDACTED]</b>								



	A	B	C	D	E	F	G	H
33	6/18/2013	6756072	Metformin 500 mg	180		Mother	Zarka, Koussay	
34	6/18/2013	6756073	Glyburide 5 mg	180		Mother	Zarka, Koussay	
35	<b>Pharmacist Jose Ferran is responsible for (2) falsified prescriptions for</b>							
36	4/6/2014	6795431	Proctosol HC 2.5% CRE	1	Jose Ferran	Self	Zarka, Koussay	
37	4/6/2014	6795432	Proctofoam - HC 1% AER	1	Jose Ferran	Self	Zarka, Koussay	
38	4/6/2014	6795433	Hydrocort AC 25 mg SUP	1	Jose Ferran	Self	Zarka, Koussay	
39	5/9/2015	6860254	Victoza 18 mg/3ml INJ	1	Jose Ferran	Self	Zarka, Koussay	
40	7/2/2015	6868938	Victoza 18 mg/3ml INJ	1	Jose Ferran	Self	Zarka, Koussay	
41	7/2/2015	6879766	Victoza 18 mg/3ml INJ	1	Jose Ferran	Self	Zarka, Koussay	
42	8/1/2015	6873799	Victoza 18 mg/3ml INJ	1	Jose Ferran	Self	Zarka, Koussay	
43	7/11/2016	6934729	Victoza 18 mg/3ml INJ	1	Jose Ferran	Self	Zarka, Koussay	
44	<b>Pharmacist Jose Ferran is responsible for (8) falsified prescriptions for himself</b>							
45								
46	<b>IAN KNICKERBOCKER - Pharmacy Technician</b>							
47	10/14/2016	6953084	Methylpred 4 mg	1		Spouse	Zarka, Koussay	
48	<b>Pharmacist Jose Ferran and Pharmacy Technician Ian Knickerbocker are responsible for (1) falsified prescription for</b>							
49								
50	<b>TIFFANY BUIE - Pharmacy Technician</b>							
51	1/16/2014	6782768	Azithromycin 250 mg pak	1	Tiffany Buie	Self	Zarka, Koussay	
52	10/7/2014	6823213	Azithromycin 250 mg pak	1	Tiffany Buie	Self	Zarka, Koussay	
53	11/12/2015	6891462	Azithromycin 250 mg pak	1	Tiffany Buie	Self	Zarka, Koussay	
54	6/14/2016	6930444	Neo/Poly/Dex 0.1% OP SUS	1	Tiffany Buie	Self	Zarka, Koussay	
55	10/15/2016	6951642	Azithromycin 250 mg pak	1	Tiffany Buie	Self	Zarka, Koussay	
56	1/18/2017	6968301	Erythromycin OP OIN	1	Tiffany Buie	Self	Zarka, Koussay	
57	<b>Pharmacist Jose Ferran and Pharmacy Technician Tiffany Buie are responsible for (6) falsified prescriptions for herself</b>							
58								
59	<b>Total falsified prescriptions for each licensee:</b>							
60	Pharmacist Jose Ferran and his family members				37			
61	Rx Tech Ian Knickerbocker				1			
62	Rx Tech Tiffany Buie				6			
63	Total fraudulent prescriptions written and filled by Jose Ferran				44			

FILED

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BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD  
OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NOS. 17-039-RPH-S
	)	17-039-PT-A-S
Petitioner,	)	17-039-PT-B-S
v.	)	
	)	
JOSE FERRAN, RPH,	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. 16283,	)	AND ACCUSATION
	)	
IAN KNICKERBOCKER, PT,	)	
Certificate of Registration No. PT07309,	)	
	)	
TIFFANY BUIE, PT,	)	
Certificate of Registration No. PT08743,	)	
	)	
Respondents.	/	

Larry L. Pinson, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3), and as an accusation under NRS 639.241.

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter and these respondents because at the time of the alleged events, Respondent Jose Ferran, R.Ph. (Ferran), Certificate of Registration 16283, was a pharmacist registered by the Board; and Respondents Tiffany Buie, PT (Buie), Certificate of Registration PT08743, and Ian Knickerbocker, PT (Knickerbocker), Certificate of Registration PT07309, were pharmaceutical technicians registered with the Board.

**FACTUAL ALLEGATIONS**

II.

In April 2017, Walmart Pharmacy #10-4557 (Walmart) terminated managing pharmacist Jose Ferran for creating and filling fraudulent prescriptions for non-controlled substances.

III.

Walmart also terminated pharmaceutical technicians Buie and Knickerbocker from their employment for their participation in Ferran's fraudulent activity.



IV.

Ferran created a combined total of forty-four (44) "Telephoned Prescriptions" for himself, his family members, Buie and Knickerbocker's spouse, according to a written statement from Ferran. The fraudulent activities occurred during the time period of September 12, 2012, to January 18, 2017.

V.

Walmart provided a detailed summary listing the prescriptions fabricated by Ferran, which is attached hereto as **Addendum A**, and incorporated herein by reference.

VI.

Ferran fabricated "Telephone Prescriptions" falsely documenting Dr. Greg Dryanski as the prescribing physician on one prescription and Dr. Koussay Zarka as the prescriber on the remaining forty-three prescriptions.

VII.

Dr. Zarka reviewed copies of the fraudulent prescriptions provided to him by Walmart. Dr. Zarka signed, dated and documented "not authorized" on each copy of each falsified prescription. He also signed a statement affirming that he did not authorize the prescriptions.

VIII.

Walmart provided information that Ferran paid the co-pays and/or for the entire price of the fraudulent prescriptions for himself and his family using Walmart discount cards and/or billing the prescriptions through his Walmart insurance plan.

IX.

Neither Buie nor Knickerbocker had a bona fide practitioner/patient relationship with Dr. Zarka.

X.

Buie and Knickerbocker knowingly and willfully received and purchased prescriptions for various dangerous drugs for their own use or family member's use prescriptions that Ferran fabricated without a lawful prescription or authorization from a practitioner.



XI.

Buie and Knickerbocker submitted the fraudulent prescriptions for payment to their respective Walmart insurance plans.

**FIRST CAUSE OF ACTION**  
(Prescription Fraud – Jose Ferran, R.Ph.)

XII.

In creating multiple fraudulent prescriptions for various dangerous drugs for himself, members of his family, Buie and Knickerbocker, as detailed herein, including Addendum A, Ferran violated Nevada Administrative Code (NAC) 639.945(1)(h) and (k), which violations are grounds for discipline pursuant to Nevada Revised Statutes (NRS) 639.210(1), (4), (11) and/or (12), as well as NRS 639.255.

**SECOND CAUSE OF ACTION**  
(Prescription Fraud - Jose Ferran, R.Ph.)

XIII.

In filling and dispensing multiple fraudulent prescriptions for various dangerous drugs for himself, members of his family, Buie and Knickerbocker, as detailed herein, including Addendum A, without a lawful prescription or authorization from a practitioner, Ferran violated NAC 639.945(1)(h) and (k), which violations are grounds for discipline pursuant to NRS 639.210(1), (4), (11) and/or (12), as well as NRS 639.255.

**THIRD CAUSE OF ACTION**  
(Insurance Fraud - Jose Ferran, R.Ph.)

XIV.

By processing multiple fraudulent prescriptions for various dangerous drugs without a lawful prescription or authorization from a practitioner, and by billing those prescriptions to an insurance provider, Jose Ferran, R.Ph., violated Nevada Administrative Code (NAC) 639.945(h) and (k), which violations are grounds for discipline pursuant to Nevada Revised Statute (NRS) 639.210(1), (4), (11) and/or (12), as well as NRS 639.255.

#### FOURTH CAUSE OF ACTION

(Prescription Fraud - Tiffany Buie, PT and Ian Knickerbocker, PT)

XV.

By knowingly and willfully participating in fraudulent transactions by receiving and purchasing prescriptions for various dangerous drugs without a lawful prescription or authorization from a practitioner as detailed herein, including Addendum A, Tiffany Buie, PT and Ian Knickerbocker, PT violated NAC 639.945(h) and (k), which violations are grounds for discipline pursuant to Nevada Revised Statute (NRS) 639.210(1), (4), (11), and/or (12), as well as NRS 639.255.

#### FIFTH CAUSE OF ACTION


(Insurance Fraud - Tiffany Buie, PT and Ian Knickerbocker)

XVI.

By participating in fraudulent prescription transactions for various dangerous drugs without a lawful prescription or authorization from a practitioner, and by billing those prescriptions to an insurance provider, Tiffany Buie, PT and Ian Knickerbocker, PT, violated Nevada Administrative Code (NAC) 639.945(1) (h) and (k), which violations are grounds for action pursuant to Nevada Revised Statute (NRS) 639.210(1), (4), (11), and/or (12), as well as NRS 639.255.

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificates of registration of Ferran, Buie and Knickerbocker, respectively.

Signed this <sup>17</sup>17 day of November, 2017.

  
Larry L. Pinson, Pharm.D., Executive Secretary  
Nevada State Board of Pharmacy

# ADDENDUM A



