

**BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA**

Re:)	COMPLAINT
Pharmacist License of)	AND STATEMENT
DENNIS W. HARKER)	OF CHARGES
License No. 13922)	AND
Respondent)	NOTICE
)	OF HEARING

COMES NOW, Lloyd K. Jessen, Executive Secretary-Director of the Iowa Board of Pharmacy Examiners, on the 8th day of October, 1993, and files this Complaint and Statement of Charges and Notice of Hearing against Dennis W. Harker, a pharmacist licensed pursuant to Iowa Code chapter 155A, and alleges that:

1. Marian L. Roberts, Chairperson; Phyllis A. Olson, Vice Chairperson; Phyllis A. Miller; Mary Pat Mitchell; Matthew C. Osterhaus; and Arlan D. Van Norman are duly appointed, qualified members of the Iowa Board of Pharmacy Examiners.
2. Respondent was issued a license to practice pharmacy in Iowa on September 14, 1971, by examination.
3. Respondent currently resides at 2607 Woodland Avenue, West Des Moines, Iowa 50265.

4. Respondent is currently employed as a staff pharmacist at Phar-Mor Pharmacy, 10201 B University, Clive, Iowa 50325.

5. Respondent's license to practice pharmacy in Iowa is current until June 30, 1994.

6. The Board has received certified copies of the following documents:

a. United States of America v. Dennis W. Harker, Mary Ann Harker Tyler and Susan K. Terry, Superseding Indictment, Criminal No. 89-77, U. S. District Court, Southern District of Iowa, November 9, 1989. This document provides, in part, the following:

Count 1:...

1. Dennis W. Harker, formerly of West Des Moines, Iowa, has been employed since 1971 as a Special Agent of the Drug Enforcement Administration (DEA), an investigative agency of the United States, and its predecessor agencies. Harker has been stationed in St. Louis, Missouri, and Laredo, Texas...

....

20. From on or about January 1, 1983...and continuing thereafter up to and including the date of this Indictment...Dennis W. Harker...did unlawfully, willfully, and knowingly conspire, combine, confederate and agree...to:
A. Defraud the United States by impairing, obstructing and defeating lawful governmental functions of the Department of Treasury...

....

24. From January 1986 through 1988, Dennis W. Harker...spent, invested and profited by cash transactions exceeding \$1,000,000.00 (one million dollars).

25. Beginning in 1983 and at earlier times unknown...Dennis W. Harker...used an Iowa partnership...to

launder substantial amounts of currency which Harker had acquired...

....

Count 3. The Grand Jury Further Charges:

From on or about the first day of January 1, 1987, and continuously thereafter up to and including the 25th day of April, 1988...Dennis W. Harker...did willfully attempt to evade and defeat a substantial part of the income tax due and owing...to the United States of America for the calendar year 1987...

b. United States of America v. Dennis W. Harker, Judgment Including Sentence Under the Sentencing Reform Act, Criminal No. 89-77, U. S. District Court, Southern District of Iowa, July 14, 1990. This document provides, in part, the following:

The Defendant [Dennis W. Harker] pleaded guilty to count 3 of the superseding indictment filed November 9, 1989. Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses: Title 26, Section 7201 -- Income Tax Evasion (one count)...

The defendant [Dennis W. Harker] is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of twelve months. The sentence of imprisonment imposed shall run concurrently with the sentence of imprisonment imposed by this Court in case number Cr. 90-5...

Upon release from imprisonment, the defendant shall be on supervised release for a term of three years.

c. United States of America v. Dennis W. Harker, Charges, Criminal No. H-90-13, U. S. District Court, Southern District of Texas, January 12, 1990. This document provides, in part, the following:

The United States Attorney Charges That:...

...Dennis W. Harker was a Special Agent of the Drug Enforcement Administration...

...there was in existence in Laredo, Texas, an informal task force referred to as the Laredo Task Force, hereinafter (LTF), which was comprised of police officers from the Laredo, Texas, police department, sheriff deputies from the Webb County Sheriff's Department, and agents of the Drug Enforcement Administration...which was organized for the avowed purpose of combating narcotics violations.

...the LTF, under the supervision and guidance of Dennis W. Harker, utilized an investigative technique referred to as a reverse undercover operation, hereinafter RUO, whereby the LTF and its agents would negotiate to sell narcotics to willing buyers and thereafter arrest the purchaser and seize the money used during the transaction.

On or about January 1982 and continuing through and beyond December 1986...Dennis W. Harker...did knowingly, intentionally, and willfully conspire, combine, confederate and agree...to defraud the United States and to commit an offense against the United States to wit: Title 18, United States Code, Section 649, whoever having money of the United States in his possession or under his control, fails to deposit it with the Treasury of the United States of America...

It was part of the plan and purpose of said conspiracy that LTF would engage in reverse undercover operations (RUO's) in which the LTF would sell narcotics to willing buyers, and that the buyer would be subsequently arrested by marked police vehicles making a pretextual vehicular stop at a time and place remote from the narcotics transaction. The police officers were informed by the LTF before they made the "traffic" stop that the vehicle would contain narcotics.

....

It was part of the plan and purpose of the conspiracy that members of the LTF who participated in the RUO, would distribute the seized money from the narcotics transaction, with twenty-five percent being given to the confidential informant, and ten percent of the remainder given to the Webb County District Attorney's Office.

....

It was part of the plan and purpose of the conspiracy that Dennis W. Harker would willfully, knowingly, and intentionally fail to deposit into the Treasury of the United

States as required by law money belonging to the United States which he possessed and which was derived from the RUO technique described above.

d. United States of America v. Dennis W. Harker, *Judgment in a Criminal Case*, Criminal No. 90-5, U. S. District Court, Southern District of Iowa (transferred from U. S. District Court, Southern District of Texas, Criminal No. H-90-13), July 14, 1990. This document provides, in part, the following:

The Defendant [Dennis W. Harker] entered a plea of guilty as to count one...There was a finding of guilty as to count one. The Defendant [Dennis W. Harker] is convicted of the offense of: violation of Title 18, United States Code, Section 371, as charged in count one of the Information filed in the Southern District of Texas on January 12, 1990.

It is the judgment of this court that: the defendant [Dennis W. Harker] is committed to the custody of the Attorney General...for imprisonment for a period of twelve months. The sentence of imprisonment imposed shall run concurrently with the sentence of imprisonment imposed by this Court in case number Cr. 89-77.

7. In summary, Respondent was charged in two separate criminal cases. One criminal case involved allegations that Respondent had participated in illegal and improper distributions of seized money obtained from undercover narcotics transactions while employed as an agent for the U. S. Drug Enforcement Administration (DEA). The other criminal case involved allegations of money laundering and income tax evasion. As evidenced in paragraph 6, above, Respondent entered a plea of guilty to one count in each criminal case.

8. Respondent is guilty of violating 1993 Iowa Code section 155A.12(3) by virtue of the allegations contained in paragraphs 6 and 7.

1993 Iowa Code section 155A.12 provides, in part, the following:

...The board may refuse to issue or renew a license or may impose a fine, issue a reprimand, or revoke, restrict, cancel, or suspend a license, and may place a licensee on probation, if the board finds that the applicant or licensee has done any of the following:...

3. Violated any of the provisions for licensee discipline set forth in section 147.55.

1993 Iowa Code section 147.55 provides, in part, the following:

A license to practice a profession shall be revoked or suspended when the licensee is guilty of any of the following acts or offenses:...

5. Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within a profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

9. Respondent is guilty of violations of 657 Iowa Administrative Code sections 9.1(4)(e) and 9.1(4)(u) by virtue of the allegations contained in paragraphs 6 and 7.

657 Iowa Administrative Code section 9.1(4) provides, in part, the following:

The board may impose any of the disciplinary sanctions set out in subrule 9.1(2), including civil penalties in an amount not to exceed \$25,000, when the board determines that the licensee or registrant is guilty of the following acts or offenses:...

e. Conviction of a felony. A copy of the record of conviction or a plea of guilty shall be conclusive evidence.

....

u. Violating any of the grounds for revocation or suspension of a license listed in Iowa Code sections 147.55, 155A.12 and 155A.15.

The Iowa Board of Pharmacy Examiners finds that paragraphs 8 and 9 constitute grounds for which Respondent's license to practice pharmacy in Iowa can be suspended or revoked.

WHEREFORE, the undersigned charges that Respondent has violated 1993 Iowa Code section 155A.12(3) and 657 Iowa Administrative Code sections 9.1(4)(e) and 9.1(4)(u).

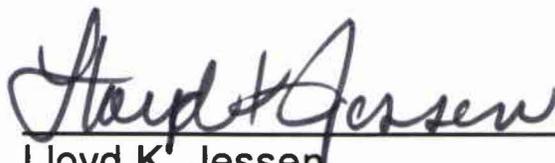
IT IS HEREBY ORDERED, pursuant to Iowa Code section 17A.12 and 657 Iowa Administrative Code section 1.2, that Dennis W. Harker appear before the Iowa Board of Pharmacy Examiners on Tuesday, January 11, 1994, at 10:00 a.m., in the second floor conference room, 1209 East Court Avenue, Executive Hills West, Capitol Complex, Des Moines, Iowa.

The undersigned further asks that upon final hearing the Board enter its findings of fact and decision to suspend or revoke the license to practice pharmacy issued to Dennis W. Harker on September 14, 1971, and take whatever additional action that they deem necessary and appropriate.

Respondent may bring counsel to the hearing, may cross-examine any witnesses, and may call witnesses of his own. If Respondent fails to appear and defend, Iowa Code section 17A.12(3) provides that the hearing may proceed and that a decision may be rendered. The failure of Respondent to appear could result in the permanent suspension or revocation of his license.

The hearing will be presided over by the Board which will be assisted by an administrative law judge from the Iowa Department of Inspections and Appeals. The office of the Attorney General is responsible for representation of the public interest in these proceedings. Information regarding the hearing may be obtained from Theresa O'Connell Weeg, Assistant Attorney General, Hoover Building, Capitol Complex, Des Moines, Iowa 50319 (telephone 515/281-6858). Copies of all filings with the Board should also be served on counsel.

IOWA BOARD OF PHARMACY EXAMINERS

A handwritten signature in cursive script, appearing to read "Lloyd K. Jessen", written over a horizontal line.

Lloyd K. Jessen
Executive Secretary/Director

BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA

Re:	Pharmacist License of	}	STIPULATION
	DENNIS W. HARKER	}	AND
	License No. 13922	}	INFORMAL
	Respondent	}	SETTLEMENT
		}	

COMES NOW the Iowa Board of Pharmacy Examiners (the Board) and Dennis W. Harker (Respondent) and, pursuant to Iowa Code sections 17A.10 and 258A.3(4), enter into the following Stipulation of the contested case currently on file:

1. Respondent was issued a license to practice pharmacy in Iowa on September 14, 1971, by examination.
2. Respondent's license is current until June 30, 1994.
3. Respondent's current address is 2607 Woodland Avenue, West Des Moines, Iowa 50266.
4. A Complaint and Statement of Charges and Notice of Hearing was filed against Respondent on October 8, 1993.
5. The Board has jurisdiction of the parties and the subject matter.
6. Respondent does not contest the allegations set forth in the complaint. The Respondent agrees that the Board may treat the allegations as true for the purpose of this Informal Settlement.

7. Respondent's license is placed on probation for a period of one year from the date of approval of this Stipulation and Informal Settlement. During the probationary period the Respondent shall:

a. Inform the Board in writing within ten (10) days of any change of home address, place of employment, home telephone number, or work telephone number.

b. Pay all required fees for renewal of his pharmacist license to prevent the license from lapsing during the period of probation.

c. Obey all federal and state laws, rules, and regulations substantially related to the practice of pharmacy and all federal and state criminal laws.

d. Not supervise any registered intern and shall not perform any of the duties of a preceptor.

e. Submit a written report to the Board once every six (6) months, beginning six months after the date of approval of this Stipulation and Informal Settlement, stating truthfully whether or not he has complied with all terms and conditions of his probation.

f. Provide evidence of efforts to maintain skill and knowledge as a pharmacist through continuing education (CE) as directed by the Board.

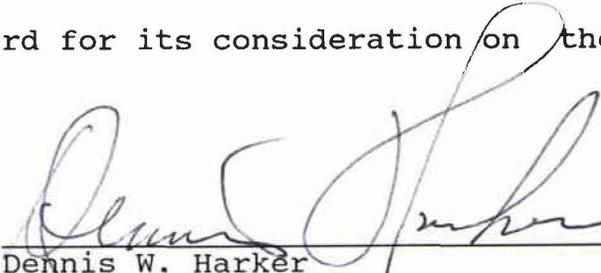
8. Should Respondent practice outside of this state, Respondent shall notify the Board in writing of the dates of such practice. Periods of practice outside of this State shall not apply to reduction of the probationary period.

9. Should Respondent violate probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the stayed suspension. If a petition to revoke probation is filed against Licensee during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

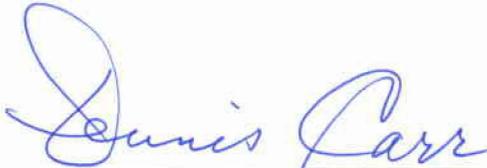
10. Upon successful completion of probation, Respondent's certificate will be fully restored.

11. Stipulation and Informal Settlement is subject to approval of the Board. If the Board approves this Stipulation and Informal Settlement, it becomes the final disposition of this matter. If the Board fails to approve this Stipulation and Informal Settlement, it shall be of no force or effect to either party.

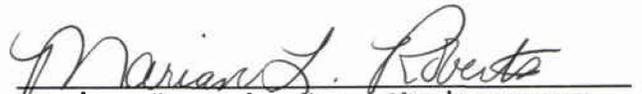
12. This Informal Settlement is voluntarily submitted by the Respondent to the Board for its consideration on the 10 day of January, 1994.


Dennis W. Harker
Respondent

Signed and sworn to before me this 10th day of January, 1994.


NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA

13. This Informal Settlement is accepted by the Iowa Board of Pharmacy Examiners on the 11 day of January, 1994.


Marian L. Roberts, Chairperson
Iowa Board of Pharmacy Examiners

**BEFORE THE BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA**

Re:)	Case No. 2000-13922
Pharmacist License of)	
DENNIS HARKER)	STATEMENT OF CHARGES
License No. 13922)	
Respondent)	

COMES NOW, the Complainant, Lloyd K. Jessen, and states:

1. He is the Executive Secretary/Director for the Iowa Board of Pharmacy Examiners and files this Statement of Charges solely in his official capacity.
2. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 155A and 272C (1999).
3. On September 14, 1974, the Board issued Respondent, Dennis Harker, a license to engage in the practice of pharmacy by examination as evidenced by license number 13922, subject to the laws of the State of Iowa and the rules of the Board.
4. License number 13922 is current and active until June 30, 2002.
5. Respondent's current address is 2607 Woodland Avenue, West Des Moines, Iowa 50266.
6. Respondent is currently employed as a pharmacist at NCH Healthcare Urbandale, 4131 109th Street, Urbandale, Iowa 50322 and has been employed as such during all times relevant to this statement of charges.

COUNT I

The Respondent is charged under Iowa Code § 155A.12(1) (1999) and 657 Iowa Administrative Code § 36.1(4)(b)(4) with professional incompetency, including repeated departure from, or failure to conform to, the minimal standard or acceptable and prevailing practice of pharmacy in the State of Iowa.

THE CIRCUMSTANCES

1. On July 17, 2000, the Board office received a complaint about a dispensing error that had occurred at the pharmacy where the Respondent was employed and that

involved the Respondent.

2. The Board's investigation of the dispensing error referred to in Paragraph 1 indicated that the Respondent made multiple dispensing errors between March 30, 2000 and September 9, 2000 while employed at the NCS Healthcare Urbandale pharmacy in Urbandale, Iowa.

WHEREFORE, the Complainant prays that a hearing be held in this matter and that the Board take such action as it may deem to be appropriate under the law.


Lloyd K. Jessen
Executive Secretary/Director

On this 10 day of October, 2000, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.


Matthew C. Osterhaus, Chairperson
Iowa Board of Pharmacy Examiners
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

cc: Shauna Russell Shields
Assistant Attorney General
Hoover State Office Building
Des Moines, Iowa 50319

**BEFORE THE IOWA BOARD OF PHARMACY EXAMINERS
OF THE STATE OF IOWA**

IN THE MATTER OF:

DENNIS W. HARKER
LICENSE NO. 13922
RESPONDENT

)
)
)
)
)

CASE NO. 2000-13922

**DISMISSAL OF COMPLAINT
AND STATEMENT OF CHARGES
AND NOTICE OF HEARING**

COMES NOW, Lloyd K. Jessen, Executive Secretary/Director of the Iowa Board of Pharmacy Examiners, on the 24th day of April, 2002, and files this Dismissal of a Complaint and Statement of Charges and Notice of Hearing filed against Respondent on October 10, 2000.

Respondent, Dennis W. Harker, has presented evidence that he may not have been responsible for the dispensing errors alleged in the Statement of Charges. Follow-up investigation by a Board investigator appears to substantiate Mr. Harker's contention that he is not responsible for the errors alleged in the Statement of Charges.

IT IS HEREBY ORDERED, that the complaint and Statement of Charges and Notice of Hearing filed against Respondent on October 10, 2000, are dismissed.



Lloyd K. Jessen
Executive Secretary/Director