

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

Re:)
Pharmacy License of)
K-MART PHARMACY) **STATEMENT OF CHARGES**
License No. 515)
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 (1997).
3. On December 31, 1997, K-Mart Pharmacy #4315, the Respondent, was issued a renewal of general pharmacy license number 515 by the Board to engage in the operation of pharmacy, subject to the laws of the State of Iowa and the rules of the Board.
4. General pharmacy license number 515 is current until December 31, 1998.
5. Respondent currently operates a general pharmacy at 901 Hollywood Boulevard, Iowa City, Iowa 52240.

COUNT I

The Respondent is charged with failing to comply with the temperature requirements for a general pharmacy in violation of 1997 Iowa Code § 155A.15(2)(c) and 657 Iowa Administrative Code § 6.5(6).

THE CIRCUMSTANCES

The Board has received an investigative report from Board Investigator Jacqueline L. Devine dated July 7, 1998. The report indicates that the temperature of the pharmacy (prescription department) at K-Mart # 4315 has not been maintained within a range compatible with the proper storage of drugs. The report also indicates that this problem was previously noted during a routine pharmacy inspection of K-Mart # 4315 by Investigator Devine on July 22, 1996, and was not corrected.

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 14th day of July, 1998, the Iowa Board of Pharmacy Examiners found probable cause to file this Statement of Charges and to order a hearing in this case.


Arlan D. VanNorman, Chairperson
Iowa Board of Pharmacy Examiners
1209 East Court Avenue
Des Moines, Iowa 50319

cc: Linny Emrich
Assistant Attorney General
Office of the Attorney General
Hoover State Office Building
Des Moines, Iowa 50319

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

Re:)
Pharmacy License of)
K-Mart Pharmacy)
License No. 515)
Respondent)

**STIPULATION
AND
CONSENT ORDER**

COME NOW the Iowa Board of Pharmacy Examiners ("the Board") and K-Mart Pharmacy of 901 Hollywood Boulevard, Iowa City, Iowa 52240 ("Respondent") and, pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (1997), enter into the following Stipulation and Consent Order settling the contested case currently on file:

The licensee disciplinary hearing pending before the Iowa Board of Pharmacy Examiners, on the allegations specified in the Statement of Charges filed against Respondent on July 14, 1998, shall be resolved without proceeding to hearing, as the parties have agreed to the following Stipulation and Consent Order:

1. That Respondent's license to operate a general pharmacy was renewed on the 31st day of December, 1997, as evidenced by Pharmacist License Number 515, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. That General Pharmacy License Number 515 issued to and currently held by Respondent is current and in force until December 31, 1998.
3. That the Iowa Board of Pharmacy Examiners has jurisdiction over the parties and the subject matter herein.

4. A Statement of Charges was filed against Respondent on July 14, 1998.
5. This Stipulation and Consent Order is entered into in order to resolve disputed claims and constitutes no admission on the part of the Respondent.
6. Respondent agrees to accept a citation and warning for the alleged violation set forth in the Statement of Charges.
7. Respondent shall fully and promptly comply with all Orders of the Board and the statutes and rules regulating the operation of a pharmacy in Iowa. Any violation of the terms of this Order is grounds for further disciplinary action, upon notice and opportunity for hearing, for failure to comply with an Order of the Board, in accordance with Iowa Code § 272C.3(2)(a).
8. Respondent shall ensure that the temperature of the pharmacy (prescription department) at K-Mart #4315 is maintained within a range compatible with the proper storage of drugs as required by Iowa Code § 155A.15(2)(c) (1997) and 657 Iowa Administrative Code § 6.5(6). Respondent shall monitor its compliance with these requirement with daily temperature checks for one year from the date the Board accepts this Stipulation and Consent Order. Respondent shall record the daily temperature checks and make such records available to the Board or agents of the Board upon request.
9. Respondent shall submit to random, unannounced visits or inspections by the Board or agents of the Board, including but not limited to inspections of the records referred to in paragraph 8, to verify compliance with this Stipulation and Consent Order.
10. The Respondent shall obey all federal and state laws, rules, and regulations

substantially related to the operation of pharmacy.

11. Should Respondent violate or fail to comply with any of the terms or conditions of this Stipulation and Consent Order, the Board may initiate action to revoke or suspend the Respondent's Iowa license to operate a pharmacy or to impose other licensee discipline as authorized by Iowa Code chapters 272C and 155A and 657 Iowa Administrative Code § 9.1.
12. This Stipulation and Consent Order is the resolution of a contested case. By entering into this Stipulation and Consent Order, Respondent waives all rights to a contested case hearing on the allegations contained in the Statement of Charges, and waives any objections to this Stipulation and Consent Order.
13. This proposed settlement is subject to approval by a majority of the full Board. If the Board fails to approve this settlement, it shall be of no force or effect to either party. If the Board approves this Stipulation and Consent Order, it shall be the full and final resolution of this matter.
14. This proposed settlement is subject to approval by a majority of the full Board. If the Board fails to approve this settlement, it shall be of no force or effect to either party. If the Board approves this Stipulation and Consent Order, it shall be the full and final resolution of this matter.
15. The Board's approval of this Stipulation and Consent Order shall constitute a **FINAL ORDER** of the Board in a disciplinary action.

16. This Stipulation and Consent Order is voluntarily submitted by Respondent to the Board for its consideration on the 1st day of FEBRUARY, 1999.

Dianne R. Morrison
K-Mart Pharmacy
Dianne R. Morrison, R.Ph.
Pharmacist in charge,
Respondent

Subscribed and sworn to before me by Dianne R. Morrison, who has stated to me that he/she is the pharmacist in charge of K-Mart Pharmacy and that he/she is authorized to sign this Stipulation and Consent Order on behalf of said K-Mart Pharmacy on this 1 day of February, 1999.

Carolynn M Roberts
NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA

17. This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on the 3rd day of February, 1999.

Arlan D. Van Norman
ARLAN D. VAN NORMAN, Chairperson
Iowa Board of Pharmacy Examiners
Executive Hills West
1209 East Court Avenue
Des Moines, Iowa 50319

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

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

Re:)	Case No. 2000-515
Pharmacy License of)	
K MART PHARMACY 4315)	STATEMENT OF CHARGES
License No. 515)	
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) & (2001).
3. Effective January 1, 2001, the Board renewed Respondent's general pharmacy license number 515, allowing Respondent to engage in the operation of pharmacy subject to the laws of the State of Iowa and the rules of the Board.
4. General pharmacy license number 515 is current until December 31, 2001.
5. Respondent is currently operating a general pharmacy at 901 Hollywood Blvd, Iowa City, Iowa 52240.

COUNT I

The Respondent is charged under Iowa Code §§ 124.308(3), 124.402(1)(a), 124.403(1)(c), 155A.15(2)(c), 155A.15(2)(d), and 155A.15(2)(h) (1999) and 657 Iowa Administrative Code §§ 6.8, 36.1(4)(u) with failing to provide accountability for certain controlled substances.

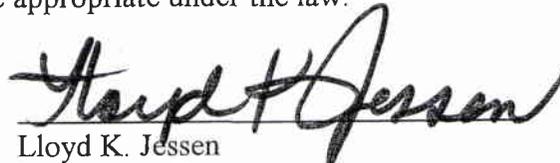
COUNT II

The Respondent is charged under Iowa Code § 155A.15(2) & 272C.8(3) (dismissal or discrimination in employment for filing a complaint with the Board) (1999) and 657 Iowa Administrative Code §§ 36.1(4)(ab) (retaliatory action) with retaliating against a pharmacist employee for filing a complaint with the Board and cooperating with a Board investigation.

THE CIRCUMSTANCES

1. On or about August 2, 2000 a Board investigator conducted an audit of controlled substances at the Respondent's Pharmacy.
2. The Audit referred to in Paragraph 1 revealed apparent shortfalls in several schedule III, schedule IV, and schedule V controlled substances.
3. In 1998 a pharmacist employed by the Respondent complained to the Board regarding problems with the temperature control in the Respondent's pharmacy.
4. As a result of the pharmacist's complaint, the Board filed a Statement of Charges against the Respondent on July 14, 1998 alleging the Respondent had failed to comply with the temperature requirements for a general pharmacy in violation of Iowa Code § 155A.12(2)(c) and 657 Iowa Administrative Code § 6.5(6). The Board and the Respondent entered into a Stipulation and Consent Order resolving the allegations in the Statement of Charges on February 3, 1999.
5. After the license disciplinary case referred to in Paragraph 2, above, was resolved, the Respondent and its agents and employees began a pattern of treating the complaining pharmacist differently than they had treated the complaining pharmacist in the past. The pattern of treatment included harassment for having made the complaint to the Board and ultimately culminated in termination of the complaining pharmacist's employment with the Respondent.

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 6th day of March, 2001, 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

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

Re:)
Pharmacy License of)
K MART PHARMACY 4315)
License No. 515)
Respondent.)

Case No. 2000-515

**ORDER
TERMINATING
STATEMENT OF CHARGES**

On the 6th day of March, 2001, the Iowa Board of Pharmacy found probable cause to file a Statement of Charges against you. There has been no resolution of the Statement of Charges. Due to no further complaints, it appears this matter has been resolved without formal discipline.

The Board HEREBY ORDERS that this case be closed.

DATED this 7th day of April 2008.



Lloyd K. Jessen, Executive Director
Iowa Board of Pharmacy
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688