

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

Re:)	Case No. 2000-501
Pharmacy License of)	
VALLEY DRUG)	STATEMENT OF CHARGES
License No. 501)	
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 (2001).
3. Effective January 1, 2001, the Board renewed the Respondent's general pharmacy license number 501 with Fred H. Ebert as the pharmacist in charge, allowing the 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 501 is current until December 31, 2001.
5. Respondent is currently operating a general pharmacy at 318 E. Erie, Missouri Valley, Iowa 51555 with Fred H. Ebert as the pharmacist in charge.

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) (2001) and 657 Iowa Administrative Code §§ 6.8, 36.1(4)(u) with failing to provide accountability for certain controlled substances.

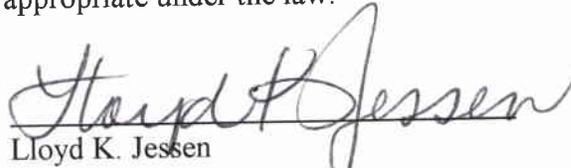
COUNT II

The Respondent is charged under Iowa Code § 155A.15(2)(i) (2001) and 657 Iowa Administrative Code §§ 6.6 & 10.10 with failing to provide and maintain effective security, controls, and procedures to guard against the theft and diversion of prescription drugs and controlled substances.

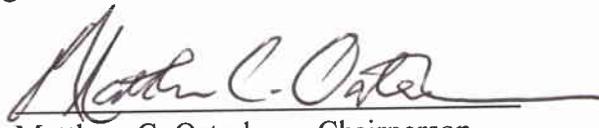
THE CIRCUMSTANCES

1. On or about January 9, 2001, the board office received notification of an apparent theft of controlled substances at Valley Drug.
2. Upon investigation, an accountability audit of Schedule II, III, IV, and V controlled substances at the Respondent's pharmacy revealed multiple shortages of Schedule II, III, IV, and V controlled drugs.
3. The investigation revealed that a theft of controlled substances did occur at Respondent's pharmacy. A pharmacy technician employed by the Respondent Pharmacy admitted to the board investigator during the course of his investigation that she had taken the missing drugs from the Respondent's pharmacy.

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 10th day of June, 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

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

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

Re:)	Case No. 2000-501
Pharmacy License of)	
VALLEY DRUG)	STIPULATION
License No. 501)	AND
Respondent)	CONSENT ORDER

COME NOW the Iowa Board of Pharmacy Examiners (“the Board”) and Valley Drug (“Respondent”) and, pursuant to Iowa Code §§ 17A.10 and 272C.3(4) (2001), 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 June 12, 2001, 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 pharmacy was renewed effective January 1, 2001, as evidenced by Pharmacist License Number 501, which is recorded in the permanent records of the Iowa Board of Pharmacy Examiners.
2. That General Pharmacy License Number 501 issued to and currently held by Respondent is current and in force until December 31, 2001.
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 June 12, 2001.

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. The Respondent's license shall be placed on probation for two (2) years, with the following conditions, beginning on the date this Stipulation and Consent Order is accepted by the Board:
 - a. Within sixty (60) days of the date of approval of this Stipulation and Consent Order by the Board, the Respondent will provide its *typewritten* policies and procedures for the following: (a) maintaining accountability for controlled substances, and (b) providing and maintaining effective security, controls, and procedures to guard against the theft and diversion of prescription drugs and controlled substances. Following review and approval by the Board, the Respondent agrees to adopt, implement, and adhere to these policies and procedures whenever operating as a pharmacy.
 - b. During probation, Respondent shall file sworn quarterly reports with the Board attesting to its compliance with all the terms and conditions of this Stipulation and Consent Order. The reports shall be filed not later than December 5, 2001, March 5, 2002, June 5, 2002, September 5, 2002; December 5, 2002, March 5, 2003, June 5, 2003, and September 5, 2003. The quarterly reports shall identify the current pharmacist in charge and all staff pharmacists and any further information deemed necessary by the Board from time to time.
 - c. The Respondent shall not permit Cathleen Anne Ebert to have access to the

prescription department at any time when a licensed pharmacist is not physically present in the department. In addition, if Cathleen Anne Ebert is given access to the prescription department, the Respondent shall keep all controlled substances in a locked area within the prescription department and shall maintain perpetual inventories of all such substances, with monthly reporting to the Board. Any time a discrepancy with controlled substances is detected, the Respondent shall notify the Board immediately and shall take appropriate steps to discover the cause of the discrepancy and take corrective action. Only a licensed pharmacist shall have a key to the controlled substance storage area and only a licensed pharmacist shall file reports with the Board.

7. The Respondent shall obey all federal and state laws, rules, and regulations substantially related to the operation of pharmacy.
8. Should the 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 § 36.1.
9. This Stipulation and Consent Order is the resolution of a contested case. By entering into this Stipulation and Consent Order, the 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.

10. 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.
11. The Board's approval of this Stipulation and Consent Order shall constitute a **FINAL ORDER** of the Board in a disciplinary action.

12. This Stipulation and Consent Order is voluntarily submitted by the Respondent to the Board for its consideration on the 1 day of October, 2001.

Fred H. Ebert

Valley Drug
Fred H. Ebert, R.Ph.
Pharmacist in charge,
Respondent

Subscribed and sworn to before me by Fred H. Ebert, who has stated to me that he is the pharmacist in charge of Valley Drug and that he is authorized to sign this Stipulation and Consent Order on behalf of said Valley Drug on this 1 day of October, 2001.

David E. Richter
NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA



13. This Stipulation and Consent Order is accepted by the Iowa Board of Pharmacy Examiners on the 10 day of October, 2000.



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
Office of the Attorney General
Hoover State Office Building
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