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DEPT. OF COMMERCE
& CONSUMER AFFAIRS
STATE OF HAWAII

DENISE P. BALANAY 5526
Regulated Industries Complaints Office
Department of Commerce and Consumer Affairs
State of Hawaii
Leiopapa A Kamehameha Building
235 South Beretania Street, Suite 900
Honolulu, Hawaii 96813
Telephone: 586-2660

Attorney for Department of Commerce
and Consumer Affairs

BOARD OF PHARMACY
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII

HEARINGS OFFICE

2012 DEC 20 P 1:19

DEPT. OF COMMERCE
AND CONSUMER AFFAIRS

In the Matter of the Miscellaneous Permit) PHA 2010-32-L
of)
HUMANA PHARMACY, INC., doing) SETTLEMENT AGREEMENT PRIOR TO
business as RIGHTSOURCE,) FILING OF PETITION FOR DISCIPLINARY
Respondent.) ACTION AND BOARD'S FINAL ORDER;
EXHIBIT "1"

248040108

SETTLEMENT AGREEMENT PRIOR TO FILING OF PETITION
FOR DISCIPLINARY ACTION AND BOARD'S FINAL ORDER

Petitioner, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS'

REGULATED INDUSTRIES COMPLAINTS OFFICE (hereinafter "RICO" or "Petitioner"),
through its undersigned attorneys, and Respondent HUMANA PHARMACY, INC., doing
business as RIGHTSOURCE (hereinafter "Respondent"), enter into this Settlement Agreement
on the terms and conditions set forth below.

A. UNCONTESTED FACTS:

1. At all relevant times herein, Respondent was permitted by the Board of Pharmacy
(hereinafter the "Board") as a pharmacy under Miscellaneous Permit Number PMP 473. The

permit was issued on or about June 13, 2006. The permit will forfeit or expire on or about December 31, 2013.

2. Respondent's mailing address for purposes of this action is 4302 W. Buckeye Road, Phoenix, Arizona 85043.

3. RICO received information that, on or about December 18, 2008, Respondent entered into a Consent Agreement with the Maine Board of Pharmacy in In Re: Humana Pharmacy, Inc./Complaint No. 2008-PHA-4787 ("Maine Agreement"). A true and correct copy of the Maine Agreement is attached hereto as Exhibit "1."

4. RICO alleges although Respondent disclosed the Maine Agreement on a Renewal Application dated December 7, 2009, Respondent failed to report the Maine Agreement to the Board within thirty days of its issuance.

5. The foregoing allegations, if proven at an administrative hearing before the Board, would constitute violations of the following statute(s) and/or rule(s): Hawaii Revised Statutes ("HRS") § 436B-19(15) (failure to report disciplinary decision within thirty days) and § 436B-19(17) (violating applicable licensing laws).

6. The Board has jurisdiction over the subject matter herein and over the parties hereto.

B. REPRESENTATIONS BY RESPONDENT:

1. Respondent is fully aware that Respondent has the right to be represented by an attorney and voluntarily waives that right.

2. Respondent enters into this Settlement Agreement freely, knowingly, voluntarily, and under no coercion or duress.

3. Respondent is aware of the right to have a hearing to adjudicate the issues in the case. Pursuant to HRS § 91-9(d), Respondent freely, knowingly, and voluntarily waives the right to a hearing and agrees to dispose of this case in accordance with the terms and conditions of this Settlement Agreement.

4. Respondent being at all times relevant herein permitted as a pharmacy by the Board acknowledges that Respondent is subject to penalties including but not limited to, revocation, suspension or limitation of the permit and administrative fines, if the foregoing allegations are proven at hearing.

5. Respondent does not admit to violating any law or rule, but acknowledges that RICO has sufficient cause to file a Petition for Disciplinary Action against Respondent's permit.

6. Respondent enters into this Settlement Agreement as a compromise of the claims and to conserve on the expenses of proceeding with an administrative hearing on this matter.

7. Respondent agrees that this Settlement Agreement is intended to resolve the issues raised in RICO's investigation in RICO Case No. PHA 2010-32-L.

8. Respondent understands this Settlement Agreement is public record pursuant to Hawaii Revised Statutes chapter 92F.

C. TERMS OF SETTLEMENT:

1. **Administrative Fine.** Respondent agrees to pay a fine in the amount of ONE THOUSAND AND NO/100 DOLLARS (\$1,000.00). Payment shall be made by cashier's check or money order made payable to "DCCA - Compliance Resolution Fund" and mailed to the Regulated Industries Complaints Office, Attn: Denise P. Balanay, Esq., 235 S. Beretania Street, 9th Floor, Honolulu, Hawaii 96813. Payment of the fine shall be due at the time this fully executed Settlement Agreement is returned to RICO.

2. Failure to Comply with Settlement Agreement. If Respondent fails to fully and timely comply with the terms of this Settlement Agreement as set forth in paragraph(s) C.1 above, Respondent's permit shall be automatically revoked upon RICO's filing of an affidavit with the Board attesting to such failure. In case of such revocation, Respondent shall turn in all indicia of the permit to the Executive Officer of the Board within ten (10) days after receipt of notice of the revocation. In case of such revocation, Respondent understands Respondent cannot apply for a new permit until the expiration of at least five (5) years after the effective date of the revocation. Respondent understands that if Respondent desires to become permitted again, Respondent must apply to the Board for a new permit pursuant to and subject to HRS §§ 92-17, 436B-21, and all other applicable laws and rules in effect at the time.

3. Possible Further Sanction. The Board, at its discretion, may pursue additional disciplinary action as provided by law to include further fines and other sanctions as the Board may deem appropriate if Respondent violates any provision of the statutes or rules governing the conduct of pharmacies in the State of Hawaii, or if Respondent fails to abide by the terms of this Settlement Agreement.

4. Approval of the Board. Respondent agrees that, except for the representations, agreements and covenants contained in Paragraphs C.5, C.6, C.7 and C.8 below, this Settlement Agreement shall not be binding on any of the parties unless and until it is approved by the Board.

5. No Objection if Board Fails to Approve. If the Board does not approve this Settlement Agreement, does not issue an order pursuant thereto, or does not approve a lesser remedy, but instead an administrative hearing is conducted against Respondent in the Board's usual and customary fashion pursuant to the Administrative Procedure Act, Respondent agrees that neither Respondent nor any attorney that Respondent may retain will raise as an objection in

any administrative proceeding or in any judicial action, to the Board's proceeding against Respondent on the basis that the Board has become disqualified to consider the case because of its review and consideration of this Settlement Agreement.

6. Any Ambiguities Shall be Construed to Protect the Consuming Public. It is agreed that any ambiguity in this Settlement Agreement is to be read in the manner that most completely protects the interests of the consuming public.

7. No Reliance on Representations by RICO. Other than the matters specifically stated in this Settlement Agreement, neither RICO nor anyone acting on its behalf has made any representation of fact, opinion or promise to Respondent to induce entry into this Settlement Agreement, and Respondent is not relying upon any statement, representation or opinion or promise made by RICO or any of its agents, employees, representatives or attorneys concerning the nature, extent or duration of exposure to legal liability arising from the subject matter of this Settlement Agreement or concerning any other matter.

8. Complete Agreement. This Settlement Agreement is a complete settlement of the rights, responsibilities and liabilities of the parties hereto with respect to the subject matter hereof; contains the entire agreement of the parties; and may only be modified, changed or amended by written instrument duly executed by all parties hereto.

IN WITNESS WHEREOF, the parties have signed this Settlement Agreement on the
date(s) set forth below.

DATED: Louisville, Kentucky, 10-8-2012.
(CITY) (STATE) (DATE)

Knutson

HUMANA PHARMACY, INC.

By: *W. K. Felt*
Its PRESIDENT, HPSO

OCT 11 2012

DATED: Honolulu, Hawaii, _____.


Denise P. Balanay
DENISE P. BALANAY
Attorney for Department of Commerce
and Consumer Affairs

IN THE MATTER OF THE MISCELLANEOUS PERMITS OF HUMANA PHARMACY, INC., DOING BUSINESS AS RIGHTSOURCE; SETTLEMENT
AGREEMENT PRIOR TO FILING OF PETITION FOR DISCIPLINARY ACTION AND BOARD'S FINAL ORDER; CASE NO. PHA 2010-32-L; EXHIBIT "1"

**IN THE MATTER OF THE MISCELLANEOUS PERMITS OF HUMANA PHARMACY,
INC., DOING BUSINESS AS RIGHTSOURCE; SETTLEMENT AGREEMENT PRIOR TO
FILING OF PETITION FOR DISCIPLINARY ACTION AND BOARD'S FINAL ORDER;
CASE NO. PHA 2010-32-L; EXHIBIT "1"**

**APPROVED AND SO ORDERED:
BOARD OF PHARMACY
STATE OF HAWAII**

MARK E. BROWN
Chairperson



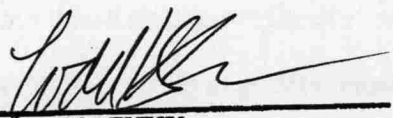
PATRICK ADAMS
Vice Chairperson

GARRETT A. LAU

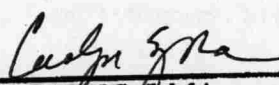
JILL OLIVEIRA GRAY

11-15-2012

DATE



TODD INAFUKU



CAROLYN S.J. MA



LYDIA KUMASAKA

PVL 07/15/11

STATE OF MAINE
BOARD OF PHARMACY

IN RE:

HUMANA PHARMACY, INC.

Complaint No. 2008-PHA-4787

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CONSENT AGREEMENT

PARTIES

This document is a Consent Agreement regarding disciplinary action against Humana Pharmacy Inc.'s license to operate a mail order prescription pharmacy dispensing prescription drugs to patients residing in the State of Maine. The parties to this Consent Agreement are: Humana Pharmacy, Inc. ("Humana") with a principal place of business in Phoenix, Arizona, the State of Maine Board of Pharmacy ("the Board") and the Maine Office of the Attorney General ("the Attorney General"). This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5-A).

FACTS

1. At all times pertinent to this matter, Humana was licensed by the Board to operate a mail order prescription pharmacy in Phoenix, Arizona dispensing prescription drugs to patients residing in Maine, license number MO40000472.
2. On or about July 10, 2008, the Board received a complaint against Humana pertaining to an alleged prescription order that was improperly sent to a consumer in Maine.
3. The Board docketed the complaint as Complaint No. 2008-PHA-4787.
4. The complaint alleges that on or about June 26, 2008, Humana sent a consumer residing in Maine prescription drugs that the consumer did not order.

In re: Humana Pharmacy, Inc.
2008-PHA-4787

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Consent Agreement

EXHIBIT 7

5. The drug container was labeled by Humana with the name of the Maine resident and indicated that the prescribing practitioner was a physician from Florida.
6. Humana charged the cost of the drugs to the credit card of the Maine consumer and to Medicare.
7. On November 18, 2008, following a presentation of the complaint, the Board voted to offer Humana this Consent Agreement, in order to resolve Complaint No. 2008-PHA-4787. Absent acceptance of this Consent Agreement by signing and dating it and returning it to Kelly McLaughlin, Board Clerk, Board of Pharmacy, 35 State House Station, Augusta, Maine 04333-0035 by January 5, 2009, the Board will resolve this matter by holding an adjudicatory hearing.

COVENANTS

8. Humana admits that it was responsible for dispensing the erroneously filled prescription as described in paragraphs 4 through 6 above and admits that such conduct constitutes grounds for disciplining it pursuant to 10 M.R.S. § 8003(5-A)(A)(5), for violating a rule of the Board as follows:
 - a. Chapter 30 § 15 by failing to establish and maintain effective controls to prevent prescription errors or misfills; and
 - b. Chapter 30 § 16 by failing to address or attempt to resolve a possible prescription error which was apparent or should have been apparent.

9. As DISCIPLINE for the conduct admitted in paragraph 8 above, Humana agrees to
- a. Accept a WARNING; and
 - b. Pay a CIVIL PENALTY in the amount of one hundred dollars (\$100.00), which shall be made by check or money order payable to the "Treasurer, State of Maine" and delivered to Kelly McLaughlin, Board Clerk, Board of Pharmacy, 35 State House Station, Augusta, Maine 04333-0035, within thirty (30) days of the execution of this Consent Agreement.
10. Violation of any of the terms or conditions of this Consent Agreement by Humana shall constitute grounds for discipline, including but not limited to modification, suspension, or revocation of licensure or the denial of licensure or re-licensure.
11. This Consent Agreement is not appealable and is effective until modified or rescinded by the parties hereto.
12. The Board and the Office of the Attorney General may communicate and cooperate regarding any matter related to this Consent Agreement.
13. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408.
14. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.
15. Humana acknowledges by signature of an authorized representative hereto that it has read this Consent Agreement, that it has had an opportunity to consult with an attorney before executing this Consent Agreement, that it executed this Consent Agreement of its own free will, and that it agrees to abide by all terms and conditions set forth herein.

DATED: 12/18/08

Don K. McKeown
For HUMANA PHARMACY, INC.

Don K. McKeown, Pharmacist in Charge
Print Name and Title

DATED: 12/21/08

Lori A. McKeown
LORI A. McKEOWN, R.Ph., President
Maine Board of Pharmacy

DATED: 12/27/2011

Andrew L. Black
ANDREW L. BLACK
Assistant Attorney General