

BOBBI W.Y. LUM-MEW  
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

6299 DEPT. OF COMMERCE  
AND CONSUMER AFFAIRS

2013 APR 22 P 3: 10

HEARINGS OFFICE

RECEIVED  
OFFICE OF PROFESSIONAL  
REGULATION AND DISCIPLINE

2013 MAR 25 A 10: 01

DEPT. OF COMMERCE  
AND CONSUMER AFFAIRS  
STATE OF HAWAII

Attorney for Department of Commerce  
and Consumer Affairs

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

In the Matter of the Pharmacist's License of ) PHA 2012-26-L  
)  
CHARLES BALZARINI, )  
) SETTLEMENT AGREEMENT PRIOR TO  
) FILING OF PETITION FOR DISCIPLINARY  
Respondent. ) ACTION AND BOARD'S FINAL ORDER;  
) EXHIBIT "1"  
)

241042211

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 attorney, and Respondent CHARLES BALZARINI (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 licensed by the Board of Pharmacy  
(hereinafter the "Board") as a pharmacist under license number PH 3153. The license was issued  
on or about January 24, 2011. The license will expire or forfeit on or about December 31, 2013.

2. Respondent's mailing address for purposes of this action is 30840 Prudhoe Bay  
Avenue, Eagle River, Alaska 99577.

3. RICO received information that Respondent entered into a Consent Agreement with the Alaska Board of Pharmacy in In the Matter of Charles G. Balzarini, in Case No. 2010-001171 issued on March 16, 2011. A true and correct copy of the Consent Agreement is attached as Exhibit "1." Respondent was ordered to pay a fine of \$2,000.00 with \$1,500.00 suspended. His license was placed on suspension for one year with the suspension stayed as long as he remained in compliance with the agreement. Respondent was also reprimanded and placed on probation for five years. The action stemmed from Respondent's failure to answer truthfully on his Alaska renewal form regarding a prior conviction on May 5, 2010 for Forgery in the 3<sup>rd</sup> degree and Theft in the 3<sup>rd</sup> degree, both Class A Misdemeanors.

4. RICO alleges that although Respondent answered truthfully on his Hawaii renewal form regarding Alaska's disciplinary action, he failed to notify the Board within thirty days of this disciplinary action and Respondent had this disciplinary action taken against him by another state for reasons provided by the Hawaii licensing laws.

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 in writing to the licensing authority any disciplinary decision in another jurisdiction within 30 days) and § 436B-19(13) (disciplinary action by another state for any reason provided by the 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 licensed as a pharmacist by the Board acknowledges that Respondent is subject to penalties including but not limited to, revocation, suspension or limitation of the license 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 license.

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 No. PHA 2012-26-L.

8. Respondent understands that this Settlement Agreement may be subject to reporting requirements.

9. 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 FIVE HUNDRED AND NO/100 DOLLARS (\$500.00). 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: Bobbi W.Y. Lum-Mew, Esq., 235 S. Beretania Street, 9<sup>th</sup> Floor, Honolulu, Hawaii 96813. Payment of the fine shall be due within thirty (30) days of the date that this Settlement Agreement is approved by the Board.

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 C.1 above, Respondent's license 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 license 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 license until the expiration of at least five (5) years after the effective date of the revocation. Respondent understands that if Respondent desires to become licensed again, Respondent must apply to the Board for a new license 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 pharmacists 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.

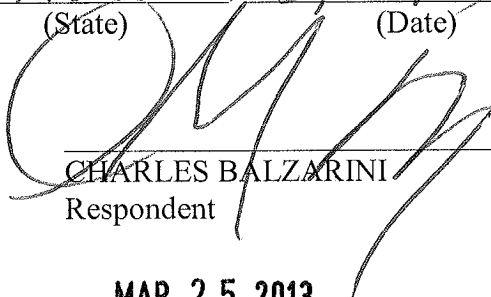
7. No Reliance on Representations by RICO. Other than the matters specifically stated in this Settlement Agreement, neither RICO nor anyone acting on its behalf has made any representation of fact, opinion or promise to Respondent to induce entry into this Settlement Agreement, and Respondent is not 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.

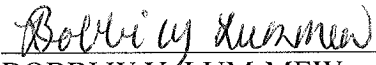
8. Complete Agreement. This Settlement Agreement is a complete settlement of the rights, responsibilities and liabilities of the parties hereto with respect to the subject matter hereof; contains the entire agreement of the parties; and may only be modified, changed or amended by written instrument duly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

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

DATED: Kona, Hi, 3/21/13  
(City) (State) (Date)

  
\_\_\_\_\_  
CHARLES BALZARINI  
Respondent


DATED: Honolulu, Hawaii, MAR 25 2013

  
\_\_\_\_\_  
BOBBI W.Y. LUM-MEW  
Attorney for Department of Commerce and  
Consumer Affairs

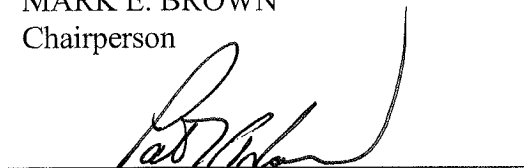
IN THE MATTER OF THE PHARMACIST'S LICENSE OF CHARLES BALZARINI;  
SETTLEMENT AGREEMENT PRIOR TO FILING OF PETITION FOR DISCIPLINARY  
ACTION AND BOARD'S FINAL ORDER; CASE NO. PHA 2012-26-L.

---

APPROVED AND SO ORDERED:  
BOARD OF PHARMACY  
STATE OF HAWAII

  
\_\_\_\_\_  
MARK E. BROWN  
Chairperson

4/18/13  
\_\_\_\_\_  
DATE

  
\_\_\_\_\_  
PATRICK ADAMS  
Vice Chairperson

  
\_\_\_\_\_  
TODD INAFUKU

  
\_\_\_\_\_  
GARRETT A. LAU

\_\_\_\_\_  
CAROLYN S. J. MA

  
\_\_\_\_\_  
JILL OLIVEIRA GRAY

  
\_\_\_\_\_  
LYDIA KUMASAKA

PVL 07/15/11

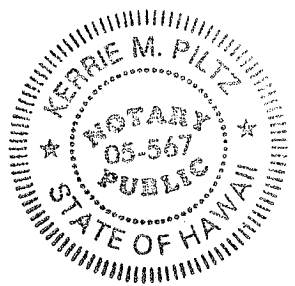
KMP  
STATE OF ~~ALASKA~~ <sup>Hawaii</sup> )  
COUNTY OF Hawaii ) SS.  
)

On this 21 day of March, 20 13, before me personally appeared Charles Balzarini, to me known to be the person described, and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

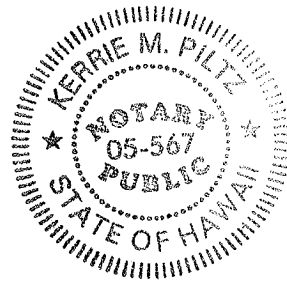
This 8-page SETTLEMENT AGREEMENT PRIOR TO FILING OF PETITION FOR DISCIPLINARY ACTION AND BOARD'S FINAL ORDER document dated

3/21, 20 13 was acknowledged before me by Kerrie M Piltz this 21st day of March, 20 13, in the City of Kailua-Kona, in the County of Hawaii, in the State of Hawaii ~~Alaska~~.

KMP  
KMP



Kerrie M Piltz  
Name: Kerrie M Piltz  
Notary Public, State of ~~Alaska~~ Hawaii  
My Commission expires: 9/11/2013



Doc Date: 3/21/2013 # Pages: 8  
Name: Kerrie M Piltz Third Circuit  
Doc. Description: Settlement Agreement  
prior to filing of petition for disciplining  
action & Board's  
final order  
Kerrie M Piltz 3/21/2013  
Signature Date

NOTARY CERTIFICATION



STATE OF ALASKA  
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT  
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING  
BEFORE THE ALASKA BOARD OF PHARMACY

In the Matter of: )  
)  
Charles G. Balzarini )  
)  
Respondent )  
Case No. 2010-001171

CONSENT AGREEMENT

IT IS HEREBY AGREED by the Department of Commerce, Community and Economic Development, Division of Corporations, Business and Professional Licensing (Division) and Charles G. Balzarini (Respondent) as follows:

1) **Licensure.** Respondent is currently licensed as a Pharmacist in the State of Alaska, and holds License number 989. This license was first issued on November 14, 1991 and will lapse unless renewed by June 30, 2012.

2) **Admission/Jurisdiction.** Respondent admits and agrees that the Board of Pharmacy (Board) has jurisdiction over the subject matter of its license in Alaska and over this Consent Agreement.

3) **Admission/Facts:** Respondent admits to the following facts:  
a) That on or about February 8, 2010 while employed as a Pharmacist for Wal-Mart Store #10-2070, 3101 A Street, Anchorage, AK, Respondent forged two (2) prescriptions for his spouse using an unknowing Physician's DEA number. The prescriptions were for Fluticasone and Levaquin.

b) That on March 4, 2010 criminal charges were filed in the District Court for the State of Alaska at Anchorage, for Theft 2<sup>nd</sup>, Alaska Statute 11.46.130(a)(1); Fraudulent use of an access device, Alaska Statute 11.46.285(a)(1); and 2 counts of Forgery 2<sup>nd</sup>, Alaska Statute 11.46.505(a)(1); all of which were a class C Felony.

c) That on May 5, 2010 in the District Court for the State of Alaska at Anchorage, Respondent entered a Guilty Plea to the reduced charges of Forgery 3<sup>rd</sup>, Alaska Statute 11.46.510(a)(1) and Theft 3<sup>rd</sup>, Alaska Statute 11.46.140, both Class A Misdemeanors.

State of Alaska  
Department of Commerce, Community and Economic Development  
Division of Corporations, Business and Professional Licensing  
550 West 7<sup>th</sup> Avenue, Suite 1500  
Anchorage, Alaska 99501-3567  
Telephone 907-269-8160 Fax 907-269-8195

CONSENT AGREEMENT  
Charles G. Balzarini  
CASE #2010-001171  
Page 1

EXHIBIT "1"

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1  
2 d) That on June 1, 2010 Respondent submitted a 2010 Biennial Pharmacist License  
3 Renewal; Respondent failed to disclose any criminal convictions and answered "NO" to renewal  
4 question #2: "Have you been convicted of any criminal offence other than a minor traffic  
5 violation?"

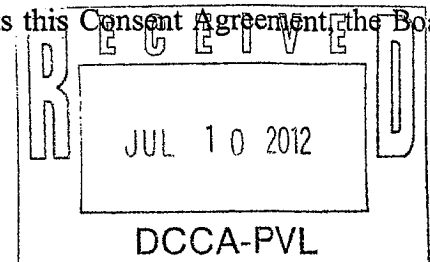
6 e) Respondent should have answered "yes" to question #2 because on May 5, 2010  
7 Respondent entered a guilty plea in the District Court for the State of Alaska at Anchorage, to the  
8 charges of Forgery 3<sup>rd</sup>, Alaska Statute 11.46.510(a)(1) and Theft 3<sup>rd</sup>, Alaska Statute 11.46.140,  
9 both Class A Misdemeanors.

10 Respondent admits that as a result of the above facts, grounds exist for the denial of the  
11 renewal of Respondent's Alaska license, or for the imposition of disciplinary sanctions,  
12 pursuant to AS 08.01.075, AS 08.80.261(a)(1), AS 08.80.261(a)(2), and 12 ACC 52.920(a)(1).

13 4) **Formal Hearing Process.** It is the intent of the parties to this Consent  
14 Agreement to provide for the compromise and settlement of all issues that were raised by or in an  
15 accusation to revoke, suspend, or impose disciplinary sanctions against Respondent's license  
16 through a formal hearing process.

17 5) **Waiver of Rights.** Respondent understands he has the right to consult with an  
18 attorney of his own choosing and has a right to an administrative hearing on the facts in this case.  
19 Respondent understands and agrees that by signing this Consent Agreement, Respondent is  
20 waiving his rights to counsel and to a hearing. Further, Respondent understands and agrees that  
21 he is relieving the Division of any burden it has of proving the facts admitted above. Respondent  
22 further understands and agrees that by signing this Consent Agreement he is voluntarily and  
23 knowingly giving up his right to present oral and documentary evidence, to present rebuttal  
24 evidence, to cross-examine witnesses against Respondent, and to appeal the Board's decision to  
25 Superior Court.

26 6) **Effect of Nonacceptance of Consent Agreement.** Respondent and the Division  
27 agree that this Consent Agreement is subject to the approval of the Board. They agree that, if the  
28 Board rejects this Consent Agreement, it will be void, and an Accusation may be filed. If this  
29 Consent Agreement is rejected by the Board, it will not constitute a waiver of Respondent's right  
30 to a hearing on the matters alleged in an Accusation and the admissions contained herein will  
31 have no effect. Respondent agrees that, if the Board rejects this Consent Agreement, the Board



1 may decide the matter after a hearing, and its consideration of this Consent Agreement shall not  
2 alone be grounds for claiming that the Board is biased against Respondent, that it cannot fairly  
3 decide the case, or that it has received ex parte communication.

4 7) **Consent Agreement, Decision, and Order.** Respondent agrees that the Board  
5 has the authority to enter into this Consent Agreement and to issue the following Decision and  
6 Order.

7 **PROPOSED DECISION AND ORDER**

8  
9 IT IS HEREBY ORDERED that the license issued to the Respondent is under probation.  
10 This license shall be subject to the following terms and conditions of license probation:

11 **A. Duration of Probation**

12 Respondent's license shall be on probation for five (5) years effective the date of this  
13 Order. If Respondent fully complies with all of the terms and conditions of this license probation,  
14 the probationary period will end as conditioned under this Order. The five year probationary  
15 period will not be reduced by the following periods:

- 16 (1) any absence from the state in excess of 30 continuous days.  
17 (2) any absence from the state in excess of 60 aggregate days in a single year.  
18 (3) any period during which Respondent is not a resident of the State of Alaska.  
19 (4) any period in which Respondent does not hold an active license in Alaska.

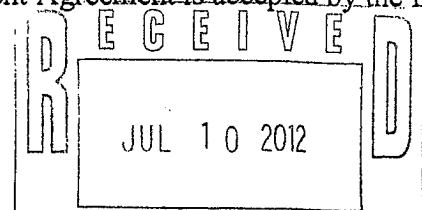
20 It will be Respondent's duty to inform the Board/Commission's agent in writing in  
21 advance of any absence from Alaska and/or any move from Alaska to another licensing  
22 jurisdiction.

23 **B. License Suspension**

24 Respondent's Pharmacist license Number 989 shall be suspended for 1 year, effective the  
25 date of this Order. The suspension is stayed providing the Respondent remains in compliance  
26 with this agreement.

27 **C. Civil Fine**

28 Respondent shall pay a fine of two thousand dollars (\$2,000), with fifteen hundred dollars  
29 (\$1,500) suspended. Payment will be in cash, certified check, or money order payable to the  
30 "State of Alaska" within ninety (90) days after this Consent Agreement is accepted by the Board.



State of Alaska  
Department of Commerce, Community and Economic Development  
Division of Corporations, Business and Professional Licensing  
550 West 7<sup>th</sup> Avenue, Suite 1500  
Anchorage, Alaska 99501-3567  
Telephone 907-269-8160 Fax 907-269-8195

1 If the five hundred dollar (\$500) amount is not paid within the ninety (90) days, the full amount of  
2 two thousand dollars (\$2000) shall become immediately due and payable.

3 All payments required by this Consent Agreement shall be addressed to:

4 Quinten D. Warren, Chief Investigator  
5 Division of Corporations, Business and Professional Licensing  
6 550 West 7<sup>th</sup> Avenue, Suite 1500  
7 Anchorage, Alaska 99501-3567

8 **D. Reprimand**

9 It is hereby ordered that a public reprimand be issued against Charles G. Balzarini for his  
10 failure to provide complete and accurate information on his application for licensure.

11 **E. Violation of Agreement**

12 If Respondent fails to comply with any term or condition of this Consent Agreement, the  
13 Division may enforce this agreement by immediately suspending Respondent's license, without  
14 an additional order from the Board or without a prior hearing.

15 If Respondent's license is suspended under this paragraph, as provided above, Respondent  
16 will be entitled to a hearing regarding the issue of the suspension. If Respondent's license is  
17 suspended, he will continue to be responsible for all license requirements pursuant to AS 08.80.

18 **F. Good Faith.**

19 All parties agree to act in good faith in carrying out the stated intentions of this Consent  
20 Agreement.

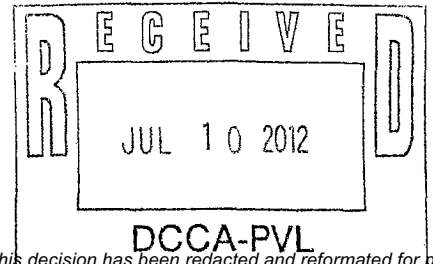
21 **G. Address of the Board**

22 All required reports or other communication concerning compliance with this Consent  
23 Agreement shall be addressed to:

24 Investigator Gary Keiser  
25 Division of Corporations, Business and Professional Licensing  
26 550 West 7<sup>th</sup> Avenue, Suite 1500  
27 Anchorage, Alaska 99501-3567  
28 (907) 269-0168 Fax (907) 269-8195

29 It is the responsibility of Respondent to keep the Board's agent advised in writing at all  
30 times of his or her current mailing address, physical address, telephone number, current  
31 employment, and any change in employment.

32 Failure to provide notice of any changes within 10 calendar days will constitute grounds  
33 for suspension of his or her license in accordance with paragraph 'E' above



1 IT IS HEREBY FURTHER ORDERED that this Adopted Decision and Order shall take  
2 effect immediately upon its adoption by the Board of Pharmacy and is a public record of the  
3 Board of Pharmacy and the State of Alaska. The state may provide a copy of it to any person or  
4 entity.

5  
6 DATED this 1<sup>st</sup> day of MARCH, 2011 at ANCHORAGE,  
7 Alaska.

8 SUSAN K. BELL, COMMISSIONER

9  
10 By: [Signature]

11 Quinten D. Warren, Chief Investigator for  
12 Don Habeger, Director  
13 Division of Corporations, Business and  
14 Professional Licensing

15  
16 I, Charles G. Balzarini, have read the above and foregoing Consent Agreement, I  
17 understand it, and I agree to be bound by its terms and conditions.

18  
19  
20 Dated: 2/23/11

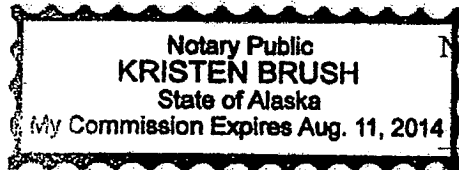
21 By: [Signature]

22  
23 R. Ph.  
24

25 Title

26  
27 SUBSCRIBED AND SWORN TO before me this 23<sup>rd</sup> day of  
28 February, 2011 at East Anchorage, Alaska.

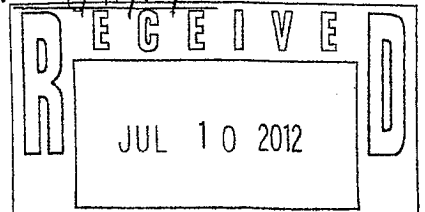
29  
30 [Signature]



31 Notary Public for the state of Alaska

32  
33 Kristen Brush  
34 Notary Printed Name

35 My commission expires: 8/11/14



DCCA-PVL

State of Alaska  
Department of Commerce, Community and Economic Development  
Division of Corporations, Business and Professional Licensing  
550 West 7<sup>th</sup> Avenue, Suite 1500  
Anchorage, Alaska 99501-3567  
Telephone 907-269-8160 Fax 907-269-8195

STATE OF ALASKA  
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT  
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING  
BEFORE THE BOARD OF PHARMACY

In the Matter of: )  
 )  
Charles G. Balzarini )  
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Respondent )  
Case No. 2010-001171 )

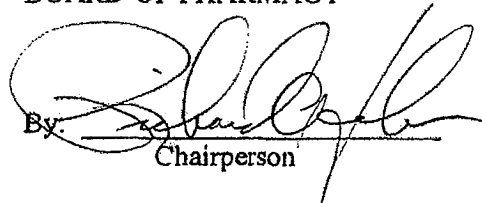
ORDER

The Board of Pharmacy for the State of Alaska, having examined the Consent Agreement and Proposed Decision and Order, hereby adopts the Consent Agreement and Decision and Order in this matter.

The Division may enforce the Consent Agreement by immediately suspending Respondent's license, without an additional order from the Board and without a prior hearing, for a violation of the Consent Agreement.

DATED this 16<sup>th</sup> day of March, 2011, at North Pole, Alaska.

BOARD OF PHARMACY

By:   
Chairperson

State of Alaska  
Department of Commerce, Community and Economic Development  
Division of Corporations, Business and Professional Licensing  
550 West 7<sup>th</sup> Avenue, Suite 1500  
Anchorage, Alaska 99501-3567  
Telephone 907-269-8160 Fax 907-269-8195

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Charles G. Balzarini  
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