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BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF THE LICENSES OF)
MARK CHRISTOPHER LONGO TO) STIPULATION AND ORDER
PRACTICE AS A PHARMACIST AND)
TO DISPENSE CONTROLLED SUBSTANCES) CASE NO. DOPL 2009- *217*
IN THE STATE OF UTAH)

MARK CHRISTOPHER LONGO ("Respondent") and the **DIVISION OF
OCCUPATIONAL AND PROFESSIONAL LICENSING** of the Department of Commerce of
the State of Utah ("Division") stipulate and agree as follows:

1. Respondent admits the jurisdiction of the Division over Respondent and over the subject matter of this action.
2. Respondent acknowledges that Respondent enters into this Stipulation knowingly and voluntarily.

3. Respondent understands that Respondent has the right to be represented by counsel in this matter and Respondent's signature below signifies that Respondent has either consulted with an attorney or Respondent waives Respondent's right to counsel in this matter.

4. Respondent understands that Respondent is entitled to a hearing before the State of Utah's Board of Pharmacy ("Board"), or other Division Presiding Officer, at which time Respondent may present evidence on Respondent's own behalf, call witnesses, and confront adverse witnesses. Respondent understands that by signing this document Respondent hereby waives the right to a hearing, the right to present evidence on Respondent's own behalf, the right to call witnesses, the right to confront adverse witnesses, and any other rights to which Respondent may be entitled in connection with said hearing. Respondent understands that by signing this document Respondent hereby knowingly and intelligently waives the right to all administrative and judicial review as set forth in §§ 63G-4-301 through 63G-4-405, and Utah Administrative Code R156-46b-12 through R156-46b-15.

5. Respondent waives the right to the issuance of a Petition and a Notice of Agency Action in this matter.

6. Respondent acknowledges that this Stipulation and Order, if adopted by the Director of the Division, will be classified as a public document. The Division may release this Stipulation and Order, and will release other information about this disciplinary action against Respondent's licenses, to other persons and entities.

7. Respondent admits the following facts are true:

- a. Respondent was first licensed as a pharmacist and to dispense controlled substances in the State of Utah on or about November 9, 1989.

- b. On or about October 1, 2007 while working as a pharmacist at a pharmacy in Salt Lake City, Utah, Respondent provided customer Jane Doe (identity withheld for purposes of confidentiality) with three boxes of Actiq suckers, each box containing 30 suckers, with each sucker containing 1200 mcg of Fentanyl (a schedule II controlled substance), while waiting approval of payment from Jane Doe's insurance company. Respondent had not yet provided six boxes of Actiq that the prescription authorized.
- c. When it was determined that the Salt Lake City pharmacy was not on Jane Doe's insurance company preferred providers list, Respondent contacted a rural Utah pharmacy in Smithfield, Utah where Respondent was also currently employed. Respondent transferred the entire prescription to the Smithfield pharmacy which was on Jane Doe's insurance company's preferred provider's list. Respondent then sold the Smithfield pharmacy nine boxes of Actiq suckers from the Salt Lake pharmacy's stock. The Smithfield pharmacy labeled six boxes of Actiq suckers with the Smithfield pharmacy label and transferred them to the Salt Lake City pharmacy, where the six boxes were dispensed by Respondent to Jane Doe. All nine boxes were billed to Jane Doe's insurance by the Smithfield pharmacy for the entire amount of the drugs.
- d. According to the Salt Lake City pharmacy's records, Respondent altered computer information to show that there was no sale of prescription drugs to Jane Doe on October 1, 2007. The prescription was deleted from the Salt Lake City pharmacy's records on October 3, 2007. The same prescription was copy/created to another prescription on October 24, 2007 by Respondent and deleted later that day.
- e. On or about November 20, 2007 Respondent's employment with the Salt Lake City pharmacy was terminated.

8. Respondent admits that Respondent's conduct described above is unlawful conduct as defined in Utah Code Ann. § 58-37-6(7)(o), § 58-37-7(3), and 21 CFR § 1306.13(a), and unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(a) and (h); and that said conduct justifies disciplinary action against Respondent's license pursuant to Utah Code Ann. § 58-1-401(2)(a) and (b). Respondent agrees that an Order, which constitutes disciplinary action against Respondent's licenses by the Division pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann. § 58-1-401(2), shall be entered in this matter as follows:

- (1) Respondent licenses shall be publicly reprimanded for the conduct described above.
- (2) Respondent shall pay an administrative fine of \$1,000.00 (one-thousand dollars pursuant to Utah Code Ann. § 58-17b-504(4)(b) and § 58-37-6(8) within 90 days of the effective date of this Stipulation and Order. *paid*
- (3) Respondent shall complete eight additional hours of continuing professional education, pre-approved by the Board and Division, in the area of Respondent's licensed field of practice, with emphasis in the areas of law and professional ethics. The eight additional hours of continuing professional education shall be completed within one year from the date of this Stipulation and Order. The eight additional hours of continuing education hours shall not count toward the regular continuing professional education requirement for license renewal. Respondent shall provide documentation to the Division and Board of successful completion of the eight additional hours.

9. This Stipulation and Order, upon approval by the Director of the Division, shall be the final compromise and settlement of this non-criminal administrative matter. Respondent acknowledges that the Director is not required to accept the terms of this Stipulation and Order and that if the Director does not do so, this Stipulation and the representations contained therein shall be null and void, except that the Division and the Respondent waive any claim of bias or prejudgment Respondent might have with regard to the Director by virtue of her having reviewed this Stipulation, and this waiver shall survive such nullification.

10. Respondent agrees to abide by and comply with all applicable federal and state laws, regulations, rules and orders related to the Respondent's licensed practice.

11. This document constitutes the entire agreement between the parties and supersedes and cancels any and all prior negotiations, representations, understandings or agreements between the parties regarding the subject of this Stipulation and Order. There are no verbal agreements that modify, interpret, construe or affect this Stipulation.

12. The terms and conditions of this Stipulation and Order become effective immediately upon the approval of this Stipulation and signing of the Order by the Division Director. Respondent must comply with all the terms and conditions of this Stipulation immediately following the Division Director's signing of the Order page of this Stipulation and Order. Respondent shall complete all the terms and conditions contained in the Stipulation and Order in a timely manner. If a time period for completion of a term or condition is not specifically set forth in the Stipulation and Order, Respondent agrees that the time period for completion of that term or condition shall be set by the Board. Failure to complete a term or condition in a timely manner shall constitute a violation of the Stipulation and Order and may subject Respondent to revocation or other sanctions.

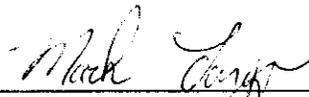
13. If Respondent violates any term or condition of this Stipulation and Order, the Division may take action against Respondent, including imposing appropriate sanction, in the manner provided by law. Such sanction may include revocation or suspension of Respondent's license, or other appropriate sanction.

14. Respondent has read each and every paragraph contained in this Stipulation and Order. Respondent understands each and every paragraph contained in this Stipulation and Order. Respondent has no questions about any paragraph or provision contained in this Stipulation and Order.

DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING

RESPONDENT

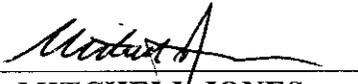
BY: 
LAURA POE
Bureau Manager

BY: 
MARK CHRISTOPHER LONGO

DATE: 7-15-09

DATE: July 15, 2009

MARK L. SHURTLEFF
ATTORNEY GENERAL

BY: 
L. MITCHELL JONES
Counsel for the Division

DATE: 15 July 2009

ORDER

THE ABOVE STIPULATION, in the matter of **MARK CHRISTOPHER LONGO**, is hereby approved by the Division of Occupational and Professional Licensing, and constitutes my Findings of Fact and Conclusions of Law in this matter. The issuance of this Order is disciplinary action pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann. § 58-1-401(2). The terms and conditions of the Stipulation are incorporated herein and constitute my final Order in this case.

DATED this 16 day of July, 2009.

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING



MARK B. STEINAGEL
Director

Investigator: Sandra Hess