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

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IN THE MATTER OF THE LICENSES OF )  
**JAMES LOGAN BEE** ) STIPULATION AND ORDER  
TO PRACTICE AS A PHARMACIST AND) )  
TO DISPENSE CONTROLLED SUBSTANCES ) CASE NO. DOPL 2010-- 39  
IN THE STATE OF UTAH ) )

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**JAMES LOGAN BEE** ("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 acknowledges that by executing this document Respondent hereby waives the right to a hearing and any other rights to which Respondent may be entitled in connection with said hearing. Respondent and the Division hereby express their intent that this matter be resolved expeditiously through stipulation as contemplated in Utah Code Ann. § 63G-4-102(4).

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. On or about February 29, 2004 Respondent began working at a chain pharmacy with locations in Utah and Nevada. Respondent worked in both states.
- b. From 2005 through 2008 Respondent filled prescriptions for himself for various prescription drugs without a valid prescription from a prescribing practitioner.

- c. From 2005 through 2008 Respondent filled prescriptions for John Doe #1 (identity withheld for purposes of confidentiality) for various prescription drugs despite John Doe #1 not having a valid prescription from a prescribing practitioner.
- d. On one occasion in about 2007 Respondent incorrectly represented that a valid prescription had been transferred to that pharmacy when it in fact had not. Respondent then dispensed a controlled substance prescription drug for John Doe #1 as described above.
- e. On or about March 19, 2008 Respondent took two Viagra or Cialis tablets from pharmacy stock and gave to John Doe #1 to mail to John Doe #1's brother who resided outside the State of Utah. Neither Respondent, John Doe #1, or John Doe #1's brother possessed a valid prescription for the Viagra or Cialis.
- f. On or about March 19, 2008, during open business hours, Respondent left the pharmacy for less than 10 minutes to accompany John Doe #1 to go to the store parking lot to see John Doe #1's new motorcycle. Respondent left the pharmacy attended by only two pharmacy technicians.
- g. On one day in 2008 Respondent took 12 Keflex tablets, a legend drug, out of pharmacy stock and placed them in a baggy. Respondent then placed the baggy in the backpack of John Doe #2. John Doe #2 did not possess a valid prescription from a prescribing practitioner for the Keflex.
- h. On one occasion in about 2007 Respondent took Ativan, a Schedule IV controlled substance, and Lisinopril, a legend drug, from pharmacy stock for his own personal use.

8. Respondent admits that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(a) and (h), § 58-17b-602(5), Utah Administrative Code R156-17b-614(7); and unlawful conduct as defined in Utah Code Ann. § 58-17b-501(6)(a), (d), and (e); and § 58-17b-501(10); 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's licenses shall be revoked. That revocation shall be immediately stayed and Respondent's licenses shall be subject to a term of probation for a period of two years. The period of probation shall commence on the effective date of this Stipulation and Order, which is the date the Division director signs the Order. During the period of probation, Respondent shall be subject to all of the following terms and conditions. If the Board or Division later deems any of the conditions unnecessary such deletions may be made by an amended order issued unilaterally by the Division.
  - (a) Respondent shall work only under a practice plan approved by the Division and Board of Pharmacy. Respondent shall not own a pharmacy or work alone in any pharmacy.
  - (b) Respondent shall practice only under the general supervision of a Division and Board pre-approved supervisor during the term of Respondent's probation. "General supervision" is defined in Utah Administrative Code R156-1-102a(4)(c). The supervisor shall be a pharmacist licensed and in good standing with the State of Utah. Any changes in supervision may be made only with the consent of the Division and Board. Respondent shall deliver a copy of this Order to Respondent's supervisor (within ten days of the establishment of the supervisory relationship) and cause Respondent's supervisor to notify the Division in writing that a copy has been received. Respondent's supervisor shall submit reports to the Division summarizing Respondent's work performance and compliance with the terms and conditions of this Stipulation and Order. The supervisor shall submit employer reports to the Division and Board on a monthly basis for the first six months and quarterly thereafter, or at such frequency as directed by the Division or Board. The supervisor shall write the Division and indicate whether the supervisor will provide the periodic supervisor reports. A pharmacy technician shall be present at all times Respondent is working in a pharmacy.
  - (c) If Respondent is not currently employed in Respondent's licensed profession, Respondent shall submit the employer report form on the date it is due and indicate on the form that Respondent is not currently employed in Respondent's licensed profession, or that Respondent is not currently working.
  - (d) Respondent shall notify any employer of Respondent's restricted status and

the terms of this Stipulation and Order. Respondent shall provide a copy of this Stipulation and Order to Respondent's employer and cause Respondent's employer to acknowledge to the Division and Board in writing that a copy of the Order has been provided to the employer. The employer shall submit employer reports to the Division and Board on a monthly basis for the first six months and quarterly thereafter, or at such frequency as directed by the Division or Board. The employer shall write the Division and indicate whether the employer will provide the periodic employer reports.

- (e) Respondent shall pay an administrative penalty to the Division in the amount of \$1,500.00 (one-thousand five-hundred dollars), pursuant to Utah Code Ann. § 58-17b-401(6), § 58-17b-504(5), and Utah Administrative Code R156-31b-402, within 90 days of the effective date of this Stipulation and Order.
- (f) Respondent shall retake and obtain a passing score on the Multi-state Pharmacy Jurisprudence Examination (MPJE) within one year of the effective date of this Stipulation and Order.
- (g) Respondent shall submit an essay to the Division and Board which focuses on the effects Respondent's actions have had on the pharmacy he worked at, the individuals he provided drugs to, and on Respondent himself. The essay shall be submitted by the 3<sup>rd</sup> meeting with the Board.
- (h) Respondent shall notify the Division and Board within one (1) week of any change of employer or employment status. This is required regardless of whether Respondent is employed in Respondent's licensed occupation. The notification shall be in writing.
- (i) Respondent shall meet with the Board and Division within thirty (30) days of signing of the accompanying Order and on a quarterly basis, or at other greater or lesser frequency as determined by the Board and Division for the duration of the probationary period thereafter to assess the progress of Respondent's probation. Respondent shall meet with the Board and Division at the first scheduled Board meeting after the effective date of the Order with a plan for Respondent's probation, including the name of his employer and supervisor. Respondent shall meet with a Division staff member prior to his initial meeting with the Board in order to review this Stipulation and Order.
- (j) Respondent shall limit Respondent's practice in accordance with the terms of probation, unless the Division and the Board authorize changes.

Respondent shall not fill prescriptions or dispense drugs of any kind to himself, his family members, or his friends.

- (k) In the event that Respondent leaves Utah for a period longer than 60 days, Respondent shall notify the Division and the Board in writing of the dates of departure and return. The licensing authorities of the jurisdiction to which Respondent moves must be promptly notified of the provisions of this Stipulation and Order. Periods of residency or practice outside Utah may apply to the reduction of the probation period if the new state of residency places Respondent's license on probation with equal or greater terms and conditions.
- (l) Periods of unemployment or employment in other fields of practice shall be reported by Respondent to the Division and shall not count toward completion of probation. Should Respondent not be employed in Respondent's licensed occupation during Respondent's probationary period for a consecutive period of more than sixty (60) days, that period shall not apply to the reduction of probation, though the terms of probation shall remain applicable. If the Respondent works less than 48 hours per month as a pharmacist, the month shall not count toward reduction of the two year period of probation.
- (m) Should other acts of unprofessional conduct come to the attention of the Division or Board which have occurred prior to the entry of the Order in this case or should Respondent violate probation in any respect, the Division may, in addition to taking action as provided for herein, after giving Respondent notice and the opportunity to be heard, revoke probation or impose sanctions in accordance with applicable law.
- (n) If a petition is filed against Respondent during Respondent's probation, the period of probation shall be extended until the matters alleged in the petition are fully resolved.
- (o) Respondent shall immediately notify the Division, in writing, of any changes in private or professional address and agrees that written communication by the Division and/or the Board shall be mailed to Respondent at the last address provided to the Division via first class U.S. Mail, and shall constitute notice to Respondent.
- (p) Failure to pay for any of the costs associated with this probation shall be considered a violation of this Order. Respondent further agrees to complete all conditions of probation in a timely manner. Where a specific time for completion is not stated in this Order, it shall be within the

Division and Board's discretion to set a time for completion.

- (q) Respondent shall keep Respondent's Utah licenses current during the period of probation.
- (r) Respondent shall notify the Division immediately if Respondent is charged or arrested with any criminal conduct and understands that a conviction is a violation of this agreement.

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. Respondent agrees not to take any action or make any public statement, that creates, or tends to create, the impression that any of the matters set forth in this Stipulation and Order are without factual basis. A public statement includes statements to one or more Board members during a meeting of the Board. Any such action or statement shall be considered a violation of this Stipulation and Order.

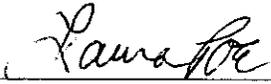
12. The terms and conditions of this Stipulation and Order become effective immediately upon the approval of this Stipulation and signing of the Order by the Division Director. Respondent must comply with all the terms and conditions of this Stipulation immediately following the Division Director's signing 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.

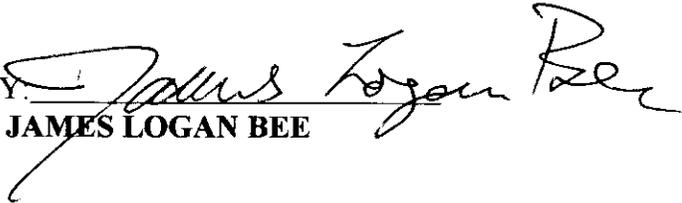
13. If Respondent violates any term or condition of this Stipulation and Order, the Division may take action against Respondent, including imposing appropriate sanction, in the manner provided by law. Such sanction may include revocation or suspension of Respondent's license, or other appropriate sanction.

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

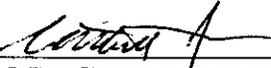
BY:   
**LAURA POE**  
Bureau Manager

BY:   
**JAMES LOGAN BEE**

DATE: 1-27-2010

DATE: 1-27-10

MARK L. SHURTLEFF  
ATTORNEY GENERAL

BY:   
**L. MITCHELL JONES**  
Counsel for the Division

DATE: 29 Jan 2010

**ORDER**

THE ABOVE STIPULATION, in the matter of **JAMES LOGAN BEE**, 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 4 day of February, 2010.

DIVISION OF OCCUPATIONAL AND  
PROFESSIONAL LICENSING



**MARK B. STEINAGEL**

Director

Investigator: Sandra Hess