

BEFORE THE STATE BOARD OF MEDICAL EXAMINERS
STATE OF COLORADO

SECOND STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF THE APPLICATION TO MODIFY RESTRICTIONS ON THE
LICENSE TO PRACTICE MEDICINE IN THE STATE OF COLORADO OF DAVID
K. ROSENTHAL, M.D. LICENSE NUMBER 32226,

Applicant.

IT IS HEREBY STIPULATED and agreed by and between the Colorado State Board of Medical Examiners ("Board") and Panel B, acting as licensing subcommittee pursuant to section 12-36-104(3), C.R.S. ("Panel"), and David K. Rosenthal, M.D., ("Applicant"), as follows:

JURISDICTION AND CASE HISTORY

1. Applicant was licensed to practice medicine in the state of Colorado on October 8, 1992 and was issued license number 32226. Applicant's license was placed on inactive status on June 1, 1993, but Applicant was licensed and practicing medicine in the state of California from July 20, 1987 through September 2, 2002.
2. In April 2003, Applicant applied to the Board to reactivate his license to practice medicine in Colorado. In his application, Applicant reported that he surrendered his license to practice medicine in California pursuant to a disciplinary action in that state. On November 14, 2003, the Panel granted Applicant a restricted license to practice medicine in the state of Colorado only within the correctional institution setting. The Panel specifically found that the oversight inherent in the practice of medicine in the correctional system would adequately protect the public. Applicant also agreed to continued monitoring by the Colorado Physician Health Program ("CPHP").
3. Since April 2003, Applicant has been compliant with probation and with CPHP monitoring.
4. On September 23, 2004, the Panel reviewed Applicant's request to modify the restrictions on Applicant's license, and that request was assigned case number 20040000795 by the Board. The Panel agreed to modify the restrictions and to impose the restrictions set forth in this Stipulation and Final Agency Order ("Order").

5. It is the intent of the parties and the purpose of this Order to provide for a settlement of all matters set forth in case number 20040000795 without the necessity of holding a formal disciplinary hearing. This Order constitutes the entire agreement between the parties, and there are no other agreements or promises, written or oral, which modify, interpret, construe or affect this Order.
6. Applicant agrees that the Board and the Panel have jurisdiction over Applicant and over the subject matter of this proceeding.
7. Applicant understands that:
 - a. Applicant has the right to be represented by an attorney of the Applicant's choice, and the Applicant has voluntarily chosen to proceed without legal representation;
 - b. Applicant has the right to a formal disciplinary hearing pursuant to § 12-36-118(5), C.R.S.;
 - c. By entering into this Order, Applicant is knowingly and voluntarily giving up the right to a hearing, admits the facts contained in this Order, and relieves the Panel of its burden of proving such facts; and
 - d. Applicant is knowingly and voluntarily giving up the right to present a defense by oral and documentary evidence, and to cross-examine witnesses who would testify on behalf of the Panel.
8. Applicant specifically admits and agrees as follows:
 - a. Applicant is a Board-certified psychiatrist.
 - b. In 1995, Applicant began treating Patient A through the Kaiser system in California. Patient A had a history of borderline personality disorder and sociopathic and histrionic traits. Patient A had been previously hospitalized for psychiatric reasons.
 - c. In June 2000, Patient A contacted the Kaiser system and specifically requested to see Applicant again as her psychiatrist. She reported that she had been sexually assaulted and that she was abusing alcohol and other addictive substances. Applicant diagnosed her with Post Traumatic Stress Disorder related to her reported history of sexual assault.
 - d. Applicant met with Patient A every two to three weeks for medication management. During a psychotherapy session in October 2002, Patient A initiated sexual contact with Applicant, and Applicant responded sexually. Applicant and Patient A had sexual relations on more than one occasion outside of the work setting.

- e. As a result of the above, Applicant pled guilty to two misdemeanor charges in California. Applicant surrendered his California license to practice medicine on September 2, 2002.
- 9. Applicant admits that the conduct set forth above constitutes unprofessional conduct as defined in § § 12-36-117 (1)(p), 12-36-117(1)(r) and 12-36-117(2), C.R.S.
- 10. Based upon the above, the Panel is authorized by § 12-36-118(5)(g)(III), C.R.S. to order such conditions upon Applicant's practice that it deems appropriate.

PRACTICE RESTRICTION

- 11. Applicant's license shall be limited to evaluation of patients and medication management.
- 12. Applicant shall not provide ongoing psychotherapy to patients.
- 13. Applicant's medical practice shall be limited to a single practice site.

PROBATIONARY LICENSE

- 14. Applicant is hereby granted a license subject to the terms and conditions of probation outlined in this Order.
- 15. Unless otherwise specified, the terms of this Order shall continue indefinitely.

TREATMENT MONITORING

- 16. Applicant shall receive such evaluation and such medical or psychological treatment as is determined to be appropriate by the Colorado Physician Health Program ("CPHP"). All instructions to Applicant by CPHP shall constitute terms of this Order, and must be complied with. Failure to comply with such instructions shall constitute a violation of this Order. CPHP shall also function as the "treatment monitor" as that term is used in this Order.
- 17. CPHP shall review and monitor Applicant's patient volume and whether that volume is appropriate for Applicant in light of Applicant's past history and the fact that Applicant was feeling overworked when his boundary violation occurred. In addition to any work-related restrictions set forth in this Order, Applicant shall also comply with CPHP's recommendations regarding work restrictions, if any. Such recommendations shall constitute terms of this Order.
- 18. CPHP shall review the quarterly reports of Applicant's practice monitor. CPHP shall order any further evaluation or treatment as may be warranted by the contents of the quarterly reports.
- 19. CPHP shall submit quarterly written reports to the Panel. The reports shall briefly describe Applicant's treatment with CPHP. The reports shall also state whether Applicant is in compliance with this Order. If at any time CPHP has reasonable cause to believe that Applicant has violated the terms of this Order, is unable to practice with skill and with safety to patients or has committed unprofessional conduct as defined in § 12-36-117(1), CPHP shall immediately inform the Panel.

20. Within 30 days of the effective date of this Order, Applicant shall complete an unrestricted release permitting CPHP to disclose to the Panel all privileged information concerning Applicant in its possession, including information generated by other sources. Any revocation of such release by Applicant shall constitute a violation of this Order. In the event Applicant does revoke such release, CPHP may, due to confidentiality concerns, feel compelled to refuse to acknowledge Applicant's participation in CPHP. CPHP's refusal to acknowledge Applicant's participation with that organization shall constitute a violation of this Order.
21. If at any time, CPHP feels that any of the above requirements are no longer necessary CPHP may petition the Panel to relax the above requirements. If the Panel agrees to such a relaxation, it shall so inform CPHP by written notice. Thereafter, Applicant may comply with this Order as set forth in that notice.
22. It is the responsibility of the Applicant to provide information to CPHP in a timely and complete manner and to assure that CPHP's reports are timely and complete.

PROFESSIONAL BOUNDARIES COURSE

23. Applicant has already completed a three-day course approved by CPHP entitled "Maintaining Proper Boundaries."
24. Applicant has also completed a several-year course of psychotherapy with an analyst with expertise in treating physicians who have committed boundary violations.

DISCLOSURE REQUIREMENT

25. Applicant shall create a document entitled "Information Regarding Practice Policies" which shall
 - a. inform patients that he has been disciplined by the Board for sexual contact with a patient, and

- b. contain the following paragraph:

Sexual relationships between a physician and a patient are never appropriate and are in fact prohibited by state law, (see Colorado Revised Statutes). Engaging in a social relationship with your physician is contrary to the promotion of the therapeutic and professional physician-patient relationship and is therefore inappropriate under any circumstances. The boundaries set forth above are necessary to ensure you the highest quality of care and are solely for your protection. If you have any concerns about the standards of my care please inform me of those concerns so that we can discuss them fully. In addition, you are invited to bring your concerns to the attention of the Colorado Board of Medical Examiners. The Colorado Board of Medical Examiners may be contacted at the following address

Colorado State Board of Medical Examiners
1560 Broadway, Suite 1300
Denver, CO 80202
FAX: 303-894-7692
TELEPHONE: 303-894-7690
Web site: www.dora.state.co.us/medical/
(303) 894-7690

26. The Applicant shall ensure that a copy of the above-described document is signed and dated by each of his current and future patients and placed in the respective medical chart of each of his current and future patients.
27. Within 30 days of the effective date of this Order, the Applicant shall submit a copy of the disclosure statement to the Panel for the Panel's approval. The Applicant shall subsequently make any changes to the disclosure statement requested by the Panel.

PRACTICE MONITORING

28. A "practice monitor" shall monitor Applicant's medical practice. Within 30 days of the effective date of this Order, the Applicant shall nominate, in writing, a proposed practice monitor for the Panel's approval. The nominee shall be a physician licensed by the Board and currently practicing medicine in Colorado. The nominee shall have no financial interest in Applicant's practice of medicine. The nominee must be knowledgeable in Applicant's area of practice. The practice monitor must be a board certified psychiatrist. If the Applicant has privileges at hospitals, it is preferred, but not required, that the nominee have privileges at as many of those same hospitals as possible. The Board shall not have disciplined the nominee.

29. Applicant's nomination for practice monitor shall set forth how the nominee meets the above criteria. With the written nomination, Applicant shall submit a letter signed by the nominee as well as a current *curriculum vitae* of the nominee. The letter from the nominee shall contain a statement from the nominee indicating that the nominee has read this Order and understands and agrees to perform the obligations set forth herein. The nominee must also state that the nominee can be fair and impartial in the review of the Applicant's practice.
30. Upon approval by the Panel, the practice monitor shall perform the following:
- a. Applicant shall assure that the practice monitor receives a copy of his evaluation by CPHP;
 - b. The practice monitor shall remain familiar with all of Applicant's cases and Applicant's progress with all patients;
 - c. The practice monitor must maintain a special vigilance for those patients who might trigger vulnerabilities leading to boundary violations. Applicant and the practice monitor shall discuss whether such patients need to be referred to another provider or comanaged;
 - d. The practice monitor shall meet with Applicant on a weekly basis to discuss at least twenty five percent of Applicant's caseload for the week. The cases discussed should be selected by the practice monitor. The cases reviewed must include the cases of any patients who might trigger vulnerabilities leading to boundary violations. Applicant and the practice monitor shall discuss Applicant's psychiatric work, his grasp of countertransference, and his grasp of boundary issues among other issues.
 - e. The practice monitor shall review and monitor Applicant's patient volume and whether that volume is appropriate for Applicant in light of Applicant's past history and the fact that Applicant was feeling overworked when his boundary violation occurred. The practice monitor shall communicate any concerns and recommendations regarding Applicant's patient volume to the Panel and to CPHP;
 - f. The practice monitor shall submit quarterly written reports to the Panel;
 - g. The practice monitor shall provide copies of the quarterly reports to the treatment monitor, except that the reports submitted to the treatment monitor may, as necessary, be modified to protect patients' identifying information; and
 - h. The practice monitor's quarterly reports submitted to the Panel and the treatment monitor shall include the following:
 - i. a description of each of the cases reviewed;

ii. as to each case reviewed, a statement as to whether the charts reviewed demonstrate compliance with the disclosure requirement as set forth above in this Order; and

iii. as to each case reviewed, the practice monitor's opinion whether Applicant is practicing medicine in accordance with generally accepted standards of medical practice and whether Applicant is maintaining appropriate boundaries.

31. If at any time the practice monitor believes Applicant is not in compliance with this Order, is unable to practice with skill and with safety to patients or has otherwise committed unprofessional conduct as defined in § 12-36-117(1), C.R.S., the practice monitor shall immediately inform the Panel.
32. It is the responsibility of the Applicant to assure that the practice monitor's reports are timely and complete. Failure of the practice monitor to perform the duties set forth above may result in a notice from Board staff requiring the nomination of a new practice monitor. Upon such notification, Applicant shall nominate a new practice monitor according to the procedure set forth above. Applicant shall nominate the new monitor within 30 days of such notice. Failure to nominate a new monitor within 30 days of such notification shall constitute a violation of this Order.

OUT OF STATE PRACTICE

33. Applicant may wish to leave Colorado and practice in another state. Except during the period of suspension described above, Applicant may request that the Board place Applicant's license on inactive status as set forth in § 12-36-137, C.R.S. Upon the approval of such request, Applicant may cease to comply with the terms of this Order. Failure to comply with the terms of this Order while inactive shall not constitute a violation of this Order. While inactive, Applicant may not engage in any act requiring a license to practice medicine in the state of Colorado, and may not perform any act constituting the practice of medicine in the state of Colorado. Unless Applicant's license is inactive, Applicant must comply with all terms of this Order, irrespective of Applicant's location. The probationary period will be tolled for any period of time Applicant's license is inactive.
34. Applicant may resume the active practice of medicine at any time as set forth in § 12-36-137(5), C.R.S. With such request, Applicant shall nominate a treatment monitor and a practice monitor as provided above. Applicant shall be permitted to resume the active practice of medicine only after approval of the practice monitor and only after CPHP provides the Panel with an updated psychiatric evaluation of Applicant.

TERMINATION OF PRACTICE MONITORING

35. At the end of the first five years of the probationary period, Applicant may petition the Panel for termination of any of the above requirements of probation. The Panel shall consider all information available through any of Applicant's application files as well as all information made available to the Panel throughout the probationary period when reviewing Applicant's request for early termination. The Panel's decision regarding such a request shall be in the discretion of the Panel and shall be unreviewable.

OTHER TERMS

36. The terms of this Order were mutually negotiated and determined.
37. Both parties acknowledge that they understand the legal consequences of this Order; both parties enter into this Order voluntarily; and both parties agree that no term or condition of this Order is unconscionable.
38. All costs and expenses incurred by Applicant to comply with this Order shall be the sole responsibility of Applicant, and shall in no way be the obligation of the Board or the Panel.
39. This Order and all its terms shall have the same force and effect as an order entered after a formal hearing pursuant to §12-36-116 and 24-4-104, C.R.S., except that Applicant can not appeal this Order. Failure to comply with the terms of this Order may be sanctioned by the Inquiry Panel as set forth in §12-36-118(5)(g)(IV), C.R.S. This Order and all its terms also constitute a valid board order for purposes of §12-36-117(l)(u), C.R.S. This Order shall be admissible as evidence at any future hearing before the Board.
40. Invalidation of any portion of this Order by judgment or court order shall in no way affect any other provision, which provision shall remain in full force and effect.
41. This Order shall be effective upon approval by the Panel and signature by a Panel member. Applicant acknowledges that the Panel may choose not to accept the terms of this Order, and if this Order is not approved by the Panel and signed by a Panel member, it is void.
42. Upon becoming effective, this Order shall be open to public inspection and shall be reported pursuant to the Board's standard policies and procedures and as required by law.

David K. Rosenthal, M.D.
DAVID K. ROSENTHAL, M.D.

The foregoing was acknowledged before me this 4th day of October, 2004,
in the county of Boulder in the state of Colorado, by David K. Rosenthal,
M.D.

Connie M. Boyer
NOTARY PUBLIC

My commission expires: 9-12-07

THE FOREGOING Second Stipulation and Final Agency Order is approved and
effective this 14 day of October, 2004.

FOR THE COLORADO STATE BOARD
OF MEDICAL EXAMINERS, PANEL B

Paul C. Cuyler D.O.

APPROVED AS TO FORM:

KEN SALAZAR
Attorney General

Claudia Brett Goldin
CLAUDIA BRETT GOLDIN, 23116*
Assistant Attorney General
Business and Licensing Section

Attorneys for the Colorado State Board of
Medical Examiners, Panel B

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*Counsel of Record

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**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation)
Against:)

DAVID K. ROSENTHAL, M.D.)

File No: 02-2000-115719

Physician's & Surgeon's)
Certificate # A-43832)

Respondent)


**ORDER CORRECTING CLERICAL ERROR IN
"EFFECTIVE DATE" PORTION OF DECISION**

On its own motion, the Division of Medical Quality (hereafter "division") finds that there is a clerical error in the "effective date" portion of the Decision in the above-entitled matter and that such clerical error should be corrected so that the effective date will conform to the division's intention.

IT IS HEREBY ORDERED that the effective date contained in the Decision in the above-entitled matter be and is hereby amended and corrected nunc pro tunc as of the date of entry of the Decision to read as follows:

"This Decision shall become effective at 5:00 p.m. on **September 2, 2002.**

IT IS SO ORDERED this 5th day of August, 2002.


Elberta Portman, Staff Services Manager I
Division of Medical Quality
Medical Board of California

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Third Amended
Accusation Against:**

Case No: 02-2000-115719

DAVID K. ROSENTHAL, M.D.

**Physician's and Surgeon's
Certificate #A-43832**

Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby accepted and adopted as the Decision and Order by the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 8, 2002.

IT IS SO ORDERED August 1, 2002

MEDICAL BOARD OF CALIFORNIA



Ronald Wender, M.D.

Chair, Panel B

Division of Medical Quality

1 BILL LOCKYER, Attorney General
of the State of California
2 GAIL M. HEPPELL
Supervising Deputy Attorney General
3 MARA FAUST, State Bar No. 111729
Deputy Attorney General
4 California Department of Justice
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5358
7 Facsimile: (916) 327-2247

8 Attorneys for Complainant

9 **BEFORE THE**
10 **DIVISION OF MEDICAL QUALITY**
11 **MEDICAL BOARD OF CALIFORNIA.**
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

12 In the Matter of the Third Amended Accusation
Against:

13 DAVID K. ROSENTHAL, M.D.
14 529 38th Street
Sacramento, CA 95816
15 Physician and Surgeon's Certificate No. A43832
16 Respondent.

Case No. 02-2000-115719

OAH No.

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

18 IT IS HEREBY STIPULATED AND AGREED by and between that parties to
19 the above-entitled proceedings that the following matters are true:

20 **PARTIES**

- 21 1. Complainant Ron Joseph is the Executive Director of the Medical Board
22 of California. He brought this action solely in his official capacity and is represented in this
23 matter by Bill Lockyer, Attorney General of the State of California, by Mara Faust, Deputy
24 Attorney General.
- 25 2. David K. Rosenthal, M.D. (Respondent) is represented in this proceeding
26 by attorney Robert J. Sullivan, whose address is 915 L Street, Suite 1000, Sacramento, CA
27 95814-3701.
- 28 3. On or about July 20, 1987, the Medical Board of California issued

Physician and Surgeon's Certificate Number A43832 to David K Rosenthal, M.D. (Respondent). The certificate was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2003, unless renewed.

JURISDICTION

4. The Third Amended Accusation No. 02-2000-115719 was filed before the Division of Medical Quality (Division) for the Medical Board of California, Department of Consumer Affairs, and is currently pending against Respondent. The Third Amended Accusation and all other statutorily required documents were properly served on Respondent on January 17, 2002. Respondent timely filed a Notice of Defense contesting the Third Amended Accusation. A copy of Third Amended Accusation No. 02-2000-115719 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Third Amended Accusation No. 02-2000-115719. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Third Amended Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

8. The admissions made by respondent herein are for the purpose of this proceeding and any other proceedings in which the Division of Medical Quality, Medical Board of California, or other professional licensing agency is involved, and shall not be admissible in

1 any other criminal or civil proceedings

2 CULPABILITY

3 9. Respondent admits the truth of the first cause for discipline in the Third
4 Amended Accusation No. 02-2000-115719 only as set forth herein. On or about February 9,
5 2001, in case number 00F10001, before the Sacramento County Superior Court, in Sacramento,
6 California, respondent entered a plea of nolo contendere to both a violation of Business and
7 Professions Code section 729 (sexual exploitation), a misdemeanor, and Penal Code section
8 243.4 (sexual battery) under *People v West*, a misdemeanor. Further respondent admits that he
9 was sentenced on March 13, 2001, to three years of probation, one hundred and eighty (180) days
10 in jail, and was ordered not to treat females or minor children during the period of probation, or if
11 the Medical Board of California acts in the interim and determines differently. Respondent
12 further admits that the facts and circumstances surrounding this offense are that on
13 approximately August 1, 2000, respondent resumed treatment of a 39-year-old female patient
14 (after a break of several years), in part because the patient stated that she was a victim of a
15 sexual assault by her landlord. Respondent admits that he had sexual contact with this female
16 patient through one act of sexual intercourse and one act of oral copulation on or about and
17 between October 10, 2000 and November 6, 2000. Respondent further agrees that cause exists
18 for discipline pursuant to Business and Professions Code sections 2235 and 726 and hereby
19 surrenders his Physician and Surgeon's Certificate to the Board for formal acceptance.

20 10. Respondent understands that by signing this stipulation he enables the
21 Division to issue its order accepting the surrender of his Physician and Surgeon's Certificate
22 without further process.

23 CONTINGENCY

24 11. This stipulation shall be subject to approval by the Division of Medical
25 Quality. Respondent understands and agrees that counsel for Complainant and staff of the
26 Medical Board of California may communicate directly with the Division regarding this
27 stipulation and settlement, without notice to or participation by Respondent or his counsel. By
28 signing the stipulation, Respondent understands and agrees that he may not withdraw his

1 agreement or seek to rescind the stipulation prior to the time the Division considers and acts
2 upon it. If the Division fails to adopt this stipulation as its Decision and Order, the Stipulated
3 Surrender of License and Order shall be of no force or effect, except for this paragraph, it shall be
4 inadmissible in any legal action between the parties, and the Division shall not be disqualified
5 from further action by having considered this matter.

6 12. The parties understand and agree that facsimile copies of this Stipulated
7 Surrender of License and Order, including facsimile signatures thereto, shall have the same force
8 and effect as the originals.

9 13. In consideration of the foregoing admissions and stipulations, the parties
10 agree that the Division may, without further notice or formal proceeding, issue and enter the
11 following Order, to be effective no less than thirty (30) days following said order:

12 **ORDER**

13 IT IS HEREBY ORDERED that Physician and Surgeon License No. A43832 ,
14 issued to Respondent David K. Rosenthal is surrendered and accepted by the Division of Medical
15 Quality.

16 1. Respondent shall lose all rights and privileges as a physician and surgeon
17 in California as of the effective date of the Division's Decision and Order.

18 2. Respondent shall cause to be delivered to the Division both his license and
19 wallet certificate on or before the effective date of the Decision and Order.

20 3. Respondent fully understands and agrees that if he ever files an application
21 for licensure or a petition for reinstatement in the State of California, the Division shall treat it as
22 a petition for reinstatement. Respondent may file a petition for reinstatement two years from the
23 effective date of the Decision and Order subject to the provisions regarding payment of costs.
24 Respondent must comply with all the laws, regulations and procedures for reinstatement of a
25 revoked license in effect at the time the petition is filed.

26 4. Respondent shall pay the Division its costs of investigation and
27 enforcement in the amount of \$13,000.00 within two years from the effective date of the
28 Decision and Order and prior to the filing of any petition.

ACCEPTANCE

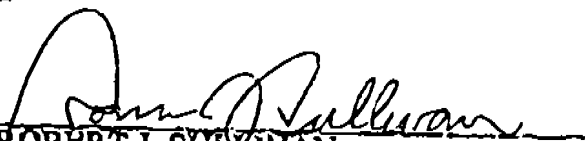
I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Robert J. Sullivan. I understand the stipulation and the effect it will have on my Physician and Surgeon's Certificate No. A43832. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Division of Medical Quality, Medical Board of California.

DATED: 7/9/02


DAVID K. ROSENTHAL
Respondent

I have read and fully discussed with Respondent, David K. Rosenthal, the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form.

DATED: July 9, 2002


ROBERT J. SULLIVAN
Attorney for Respondent

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1 **ENDORSEMENT**

2 The foregoing Stipulated Surrender of License and Order is hereby respectfully
3 submitted for consideration by the Division of Medical Quality, Medical Board of California of
4 the Department of Consumer Affairs.

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6 DATED: July 9, 2002.
7

8 BILL LOCKYER, Attorney General
9 of the State of California

10 Mara Faust
11 MARA FAUST
12 Deputy Attorney General
13 Attorneys for Complainant

14 DOJ Docket Number: 03573160-SA010171
15 Stipulation for surrender 10/12/01
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Exhibit A

Third Amended Accusation No. 02-2000-115719

1 BILL LOCKYER, Attorney General
of the State of California
2 GAIL M. HEPPELL, Supervising
Deputy Attorney General
3 MARA FAUST, State Bar No. 111729
Deputy Attorney General
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1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, California 94244-2550
6 Telephone: (916) 324-5358
Facsimile: (916) 327-2247

7 Attorneys for Complainant
8

9
10 BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
11 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

12 In the Matter of the Second Amended Accusation
Against:

13 **DAVID K. ROSENTHAL, M.D.**
14 529 38th Street
Sacramento, CA 95816

15 Physician and Surgeon's Certificate No. A43832,
16 Respondent.
17

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO *January 17 20 02*
BY: M. H. H. H. ANALYST

Case No. 02-2000-115719

THIRD AMENDED ACCUSATION

18 Complainant alleges:

19 **PARTIES**

20 1. Ron Joseph ("Complainant") brings this Third Amended Accusation solely in his
21 official capacity as the Executive Director of the Medical Board of California, Department of
22 Consumer Affairs.

23 2. On or about July 20, 1987, the Medical Board of California issued Physician and
24 Surgeon's Certificate Number A43832 to David K. Rosenthal, M.D. (hereinafter the "respondent").
25 The Physician and Surgeon's Certificate was in full force and effect at all times relevant to the
26 charges brought herein and will expire on July 31, 2003, unless renewed.

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JURISDICTION

3. This Third Amended Accusation is brought before the Division of Medical Quality, Medical Board of California ("Division"), under the authority of the following sections of the Business and Professions Code ("Code").

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Division deems proper.

5. Section 2234 of the Code states that:

The Division of Medical Quality shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate any provisions of this chapter;

(b) Gross negligence;

(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

6. Section 125.3 of the Code states that:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, the board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined licentiate that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

///

1 (d) The administrative law judge shall make a proposed finding of
2 the amount of reasonable costs of investigation and prosecution of the
3 case when requested pursuant to subdivision (a). The finding of the
4 administrative law judge with regard to costs shall not be reviewable
5 by the board to increase the cost award. The board may reduce or
6 eliminate the cost award, or remand to the administrative law judge
7 where the proposed decision fails to make a finding on costs
8 requested pursuant to subdivision (a).

9 (e) Where an order for recovery of costs is made and timely payment
10 is not made as directed in the board's decision, the board may enforce
11 the order for repayment in any appropriate court. This right of
12 enforcement shall be in addition to any other rights the board may
13 have as to any licentiate to pay costs.

14 (f) In any action for recovery of costs, proof of the board's decision
15 shall be conclusive proof of the validity of the order of payment and
16 the terms for payment.

17 (g) (1) Except as provided in paragraph (2), the board shall not renew
18 or reinstate the license of any licentiate who has failed to pay all of
19 the costs ordered under this section.

20 (2) Notwithstanding paragraph (1), the board may, in its discretion,
21 conditionally renew or reinstate for a maximum of one year the
22 license of any licentiate who demonstrates financial hardship and who
23 enters into a formal agreement with the board to reimburse the board
24 within that one-year period for the unpaid costs.

25 (h) All costs recovered under this section shall be considered a
26 reimbursement for costs incurred and shall be deposited in the fund
27 of the board recovering the costs to be available upon appropriation
28 by the Legislature.

(i) Nothing in this section shall preclude a board from including the
recovery of the costs of investigation and enforcement of a case in
any stipulated settlement.

(j) This section does not apply to any board if a specific statutory
provision in that board's licensing act provides for recovery of costs
in an administrative disciplinary proceeding.

7. Section 2236 of the Code states that:

(a) The conviction of any offense substantially related to the
qualifications, functions, or duties of a physician and surgeon
constitutes unprofessional conduct within the meaning of this chapter
[Chapter 5, the Medical Practice Act]. The record of conviction shall
be conclusive evidence only of the fact that the conviction occurred.

(b) The district attorney, city attorney, or other prosecuting agency
shall notify the Division of Medical Quality of the pendency of an
action against a licensee charging a felony or misdemeanor
immediately upon obtaining information that the defendant is a
licensee. The notice shall identify the licensee and described the

1 crimes charged and the facts alleged. The prosecuting agency shall
2 also notify the clerk of the court in which the action is pending that
3 the defendant is a licensee, and the clerk shall record prominently in
4 the file that the defendant holds a license as a physician and surgeon.

5 (c) The clerk of the court in which a licensee is convicted of a crime
6 shall, within 48 hours after the conviction, transmit a certified copy
7 of the record of conviction to the board. The division may inquire
8 into the circumstances surrounding the commission of a crime in
9 order to fix the degree of discipline or to determine if the conviction
10 is of an offense substantially related to the qualifications, functions,
11 or duties of a physician and surgeon.

12 (d) A plea or verdict of guilty or a conviction after a plea of nolo
13 contendere is deemed to be a conviction within the meaning of this
14 section and Section 2236.1. The record of conviction shall be
15 conclusive evidence of the fact that the conviction occurred.

16 8. Section 726 of the Code states:

17 The commission of any act of sexual abuse, misconduct, or relations
18 with a patient, client, or customer constitutes unprofessional conduct
19 and grounds for disciplinary action for any person licensed under this
20 division, under any initiative act referred to in this division and under
21 Chapter 17 (commencing with Section 9000) of Division 3.

22 This section shall not apply to sexual contact between a physician and
23 surgeon and his or her spouse or person in an equivalent domestic
24 relationship when that physician and surgeon provides medical
25 treatment, other than psychotherapeutic treatment, to his or her
26 spouse or person in an equivalent domestic relationship.

27 9. Section 2238 provides that a violation of any federal statute or federal regulation or
28 any of the statutes or regulations of this state regulating dangerous drugs or controlled substances
constitutes unprofessional conduct.

10. Section 2242(a) provides that prescribing, dispensing, or furnishing of dangerous
drugs as defined in Section 4211 without a good faith prior examination and medical indication
thereof, constitutes unprofessional conduct.

11. Section 2266 provides that the failure of a physician and surgeon to maintain
adequate and accurate records relating to the provisions of services to their patients, constitutes
unprofessional conduct.

12. Section 11154 of the Health and Safety Code provides, in relevant part, that except
in the practice of his or her profession, no person shall knowingly prescribe, administer, dispense,
or furnish a controlled substance to or for any person which is not under his or her treatment for a

1 pathology or condition other than addiction to a controlled substance, except as provided in this
2 division.

3 13. Section 11170 of the Health and Safety Code provides that no person shall prescribe,
4 administer, or furnish a controlled substance to himself.

5 14. Section 4074 provides, in relevant, part that a patient shall be informed of the harmful
6 effects of a drug that is dispensed and that the health facility shall establish a written policy to ensure
7 that each patient shall receive information regarding each medication and that information shall be
8 given by the patient's prescriber or pharmacist or dispensing registered nurse.

9 15. Section 4076 provides, in relevant, part that prescription medications shall not be
10 dispensed without a proper label.

11 16. Section 4170 provides, in relevant, part that no prescriber shall dispense drugs to
12 patients in his office unless all conditions of both 4170 and 4076 are met, which include a proper
13 label, an offer to give the patient a written prescription, a written disclosure to the patient regarding
14 the choice of obtaining the prescription from a pharmacy or the physician and the recordkeeping
15 requirements are met.

16 17. Section 4105 provides, in relevant part, that all records or other documentation of the
17 acquisition and disposition of dangerous drugs shall be retained in a readily retrievable form.

18 18. Section 14124.12 of the Welfare and Institutions Code states, in pertinent part:

19 (a) Upon receipt of written notice from the Medical Board of
20 California, the Osteopathic Medical Board of California, or the Board
21 of Dental Examiners of California, that a licensee's license has been
22 placed on probation as a result of a disciplinary action, the
23 department may not reimburse any Medi-Cal claim for the type of
24 surgical service or invasive procedure that gave rise to the probation,
25 including any dental surgery or invasive procedure, that was
26 performed by the licensee on or after the effective date of probation
27 and until the termination of all probationary terms and conditions or
28 until the probationary period has ended, whichever occurs first. This
section shall apply except in any case in which the relevant licensing
board determines that compelling circumstances warrant the
continued reimbursement during the probationary period of any
Medi-Cal claim, including any claim for dental services, as so
described. In such a case, the department shall continue to reimburse
the licensee for all procedures, except for those invasive or surgical
procedures for which the licensee was placed on probation.

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DRUGS

19. The following controlled substances and/or dangerous drugs are involved in this proceeding.

A. Klonopin, a trade name for Clonazepam, is a Schedule IV controlled substance within the meaning of Health and Safety Code section 11057(d)(6), and is a dangerous drug as defined in section 4022 of the Code.

B. Vicodin, a trade name for the narcotic Hhydrocodone (also known as Ddihydrocodeinone) combined with the non-narcotic substance Aacetaminophen, is a Schedule III controlled substance within the meaning of Health and Safety Code section 11056(e)(3), and a dangerous drug as defined in section 4022 of the Code.

C. Soma, a trade name for Carisoprodol, is a dangerous drug as defined in section 4022 of the Code.

D. Marijuana, is a Schedule I controlled substance as defined by Health and Safety Code section 11054 subdivision (d)(13) and a dangerous drug as defined in Section 4022, subdivision (a) of the Code.

E. Lamictal , a trade name for Lamotrigine, is a dangerous drug as defined in section 4022 of the Code.

F. Xanax, a trade name for Alprazolam, is a Schedule IV controlled substance as defined by Health and Safety Code section 11057(d)(1), and a dangerous drug as defined in section 4022 of the Code.

FIRST CAUSE FOR DISCIPLINE
(Conviction of a Crime)
[Business and Professions Code section 2236]

20. Respondent is subject to disciplinary action under section 2236 in that he suffered two convictions of crimes that are substantially related to the qualifications, functions, or duties of a physician and surgeon. The circumstances are as follows:

a. On or about February 9, 2001, in case number 00F10001 before the Sacramento County Superior Court, in Sacramento, California, respondent entered a plea of nolo

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1 contendere to both a violation of Business and Professions Code section 729 (sexual exploitation),
2 a misdemeanor, and Penal Code section 243.4 (sexual battery), a misdemeanor.

3 b. Respondent was sentenced on March 13, 2001, to three years of probation,
4 one hundred and eighty (180) days in jail, and was ordered not to treat female or minor children
5 during the period of probation, or if the Medical Board of California determines differently.

6 c. The facts and circumstances surrounding this offense are that approximately
7 in or about June of 2000, respondent resumed treatment of patient B.G.¹, a 39-year-old female, after
8 a break of several years. B.G. returned to respondent because she had been the victim of a sexual
9 assault by her landlord. Respondent admitted having had sexual contact with his patient B.G.
10 through sexual intercourse and by having the patient orally copulate respondent which occurred in
11 and about and between October 10, 2000 and November 17, 2000. In or about November 6, 2000
12 and/or November 17, 2000, respondent gave patient B.G. 3-4 pills (allegedly Klonopin), from
13 another patient's returned bottle, for the patient to chew to relieve her anxiety, while at her
14 appointment. Respondent gave B.G. the pills after she told him she had already taken two Vicodin,
15 two Klonopin and one Soma. Respondent then had sexual intercourse with patient B.G. in his
16 medical office.

17 **SECOND CAUSE FOR DISCIPLINE**
18 **(Sexual Misconduct)**
[Business and Professions Code Section 726]

19 21. Complainant realleges paragraph 20(c) above, and incorporates it herein by reference
20 as if fully set forth at this point.

21 22. Respondent's conduct as set forth in paragraph 21 above, is subject to disciplinary
22 action under section 726 (sexual misconduct), in that he committed two acts of sexual misconduct
23 with patient B.G., as previously described.

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27 1. Initials are used to protect the privacy interested of the affected individual. The name
28 will be provided through normal discovery.

THIRD CAUSE FOR DISCIPLINE
(Gross Negligence)
[Business and Professions Code Section 2234(b)]

23. Complainant realleges paragraph 20(c) above, and incorporates it herein by reference as if fully set forth at this point.

24. Respondent's conduct as set forth in paragraph 23 above, is subject to disciplinary action under section 2234(b) of the Code in that respondent had sexual relations with B.G. by being orally copulated by B.G., constitutes gross negligence.

FOURTH CAUSE FOR DISCIPLINE
(Gross Negligence)
[Business and Professions Code Section 2234(b)]

25. Complainant realleges paragraph 20(c) above, and incorporates it herein by reference as if fully set forth at this point.

26. Respondent's conduct as set forth in paragraph 25 above, along with the fact that respondent failed to do a substance abuse evaluation of patient B.G. during his period of treatment of B.G. in the year 2000, when respondent was aware of patient B.G.'s previous and current substance abuse, along with the fact that respondent prescribed psychotropic drugs to B.G. and engaged in psychotherapy for B.G.'s psychiatric problems constitutes gross negligence in violation of section 2234(b) of the Code.

FIFTH CAUSE FOR DISCIPLINE
(Gross Negligence)
[Business and Professions Code Section 2234(b)]

27. Complainant realleges paragraph 20(c) above, and incorporates it herein by reference as if fully set forth at this point.

28. Respondent's conduct as set forth in paragraph 27 above, along with the fact that respondent knew B.G. to be a neurological patient with pain management problems under the care of Dr. Bissell, yet respondent fails to coordinate care of this patient with Dr. Bissell when respondent prescribes Xanax to patient B.G. on 9/26/00 and 11/17/00, without discussing Dr. Bissell's prior and current prescriptions of Klonopin to this patient, which constitutes gross negligence in violation of section 2244(b) of the Code.

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1 **SIXTH CAUSE FOR DISCIPLINE**
2 **(Illegally Dispensing and Using Controlled Substances)**
3 **[Business and Professions Code Sections 2234(a) and (e), 2238, 2242(a)**
4 **and Health and Safety Code Sections 11154 and 11170]**

5 29. In or about June 2000 and November 2000, respondent smoked marijuana with
6 patient B.G., in respondent's car. In October 2000, patient B.G. purchased marijuana for respondent
7 and gave the respondent the marijuana on Halloween.

8 30. Respondent's conduct as described in paragraph 29, constitutes violations of sections
9 2234(a) and/or (e), and/or 2238, and/or 2242(a) of the Code, and/or Health and Safety Code
10 violations 11154, and/or 11170.

11 **SEVENTH CAUSE FOR DISCIPLINE**
12 **(Failure to note dispensed drug)**
13 **[Business and Professions Code Section 2266]**

14 31. Complainant realleges paragraph 20(c) above, and incorporates it herein by reference
15 as if fully set forth at this point.

16 32. Respondent's conduct as set forth in paragraph 31 above, is subject to disciplinary
17 action under Business and Professions Code section 2266, in that respondent has failed to maintain
18 adequate and/or accurate records relating to dispensing Klonopin to patient B.G.

19 **EIGHTH CAUSE FOR DISCIPLINE**
20 **(Gross Negligence and Improper Labeling)**
21 **[Business and Professions Code Sections 2234(b), 4076 and 4170]**

22 33. Complainant realleges paragraph 20(c) above, and incorporates it herein by reference
23 as if fully set forth at this point.

24 34. Respondent's conduct as described in paragraph 33, constitutes violation of section
25 2234(b), 4076 and 4170 of the Code in that respondent improperly labeled a bottle containing
26 Klonopin.

27 **NINTH CAUSE FOR DISCIPLINE**
28 **(Gross Negligence)**
29 **[Business and Professions Code Section 2234(b)]**

30 35. On or about and between March 23 and May 24, 2000, respondent treated patient
31 B.H., a 56-year-old female, for anxiety, depression, attention deficit disorder and possible Bipolar
32 II Disorder.

1 36. At one of the two above-referenced appointments, respondent gave the patient an
2 open bottle of 25 mg Lamictal tablets with the label partially torn off. The partial label on the bottle
3 had another physician's name on it as the prescribing physician and indicated that 200 tablets were
4 in the bottle, though fewer than that number were in the bottle.

5 37. Respondent gave the patient verbal instructions to take two tablets twice a day. The
6 instructions written on the bottle indicated to take four tablets twice a day. No mental status
7 examination was given by respondent and no record of what the drug Lamictal was prescribed to this
8 patient for was recorded in the chart. Respondent did not mention the drug's side effects to patient
9 B.H.

10 38. B.H. took the medication for 1 ½ - 2 weeks and found it make her feel ill. B.H. felt
11 drowsy, nauseous and lethargic. These feelings did not subside until B.H. stopped taking the
12 medication.

13 39. Respondent's conduct as described in paragraphs 35-38, constitutes a violation of
14 section 2234(b), in that respondent improperly reused a dangerous drug in an open bottle and
15 redispensed on a new patient, which had been prescribed by another doctor for a different patient.

16 **TENTH CAUSE FOR DISCIPLINE**
17 **(Gross Negligence and Improper Labeling)**
18 **[Business and Professions Code Sections 2234(b), 4076 and 4170]**

19 40. Complainant realleges paragraphs 35-38 above, and incorporates them herein by
20 reference as if fully set forth at this point.

21 41. Respondent's conduct as described in paragraph 40, constitutes violation of section
22 2234(b), 4076 and 4170 of the Code in that respondent improperly labeled a bottle containing
23 Lamictal.

24 **ELEVENTH CAUSE FOR DISCIPLINE**
25 **(Gross Negligence and Improper Recordkeeping)**
26 **[Business and Professions Code Section 2234(b), 4105, 2266 and 4170]**

27 42. Complainant realleges paragraphs 35-38 above, and incorporates them herein by
28 reference as if fully set forth at this point.

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1 43. Respondent's conduct as described in paragraph 42, constitutes violations of 2234(b)
2 4105, 2266 and 4170 of the Code in that Respondent's records were improper and insufficient with
3 regard to his prescribing and reusing the Lamictal to patient B.H.

4 **TWELFTH CAUSE FOR DISCIPLINE**
5 **(Gross Negligence, Insufficient Instructions to Patient)**
6 **[Business and Professions Code Sections 2234(b) and 4074]**

7 44. Complainant realleges paragraphs 35-38 above, and incorporates them herein by
8 reference as if fully set forth at this point.

9 45. Respondent's conduct as described in paragraph 44, constitutes violations of 2234(b)
10 and 4074 in that respondent failed to inform B.H. of the harmful side effects of Lamictal.

11 **THIRTEENTH CAUSE FOR DISCIPLINE**
12 **(Gross Negligence, No Good Faith Mental Examination)**
13 **[Business and Professions Code Sections 2234(b) and 2242]**

14 46. Complainant realleges paragraphs 35-38 above, and incorporates them herein by
15 reference as if fully set forth at this point.

16 47. Respondent's conduct as described in paragraph 46, constitutes violations of 2234(b)
17 and 2242, in that respondent failed to perform a mental status examination before prescribing
18 Lamictal to patient B.H.

19 **FOURTEENTH CAUSE FOR DISCIPLINE**
20 **(Gross Negligence,)**
21 **[Business and Professions Code Sections 2234(b)]**

22 48. Complainant realleges paragraphs 35-38 above, and incorporates them herein by
23 reference as if fully set forth at this point.

24 49. Respondent's conduct as described in paragraph 48, along with the fact that
25 respondent knew of a prior problem with patient B.H. involving alcohol abuse yet failed to do a
26 substance abuse evaluation constitutes violations of 2234(b).

27 **PRAYER**

28 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
and that following the hearing, the Division of Medical Quality issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A43832,
issued to David K. Rosenthal, M.D.;

1 2. Revoking, suspending or denying approval of David K. Rosenthal, M.D.'s authority
2 to supervise physician's assistants, pursuant to section 3527 of the Code;

3 3. Ordering David K. Rosenthal, M.D. to pay the Division of Medical Quality the
4 reasonable costs of the investigation and enforcement of this case, and, if placed on probation, the
5 costs of probation monitoring;

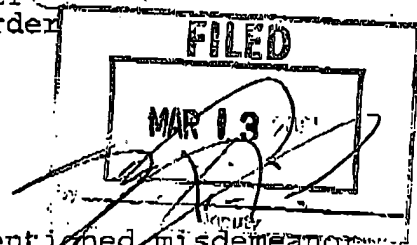
6 4. Taking such other and further action as deemed necessary and proper.

7 DATED: 4/17/02

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10 Maria Faust for
11 RON JOSEPH
12 Executive Director
13 Medical Board of California
14 Department of Consumer Affairs
15 State of California
16 Complainant
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SACRAMENTO MUNICIPAL COURT DISTRICT
Formal Probation Order And Minute Order

XREF - 2126560 DEFENDANT NAME - ROSENTHAL, DAVID
CASE NUMBER - 00F10001
Violations - BP 729, PC 243.4



ORDER GRANTING FORMAL PROBATION - SUPERVISED

The defendant having been convicted of the above-mentioned misdemeanor violations appeared before this court for judgment and sentence, and having been duly arraigned for said purpose for the above violations and no legal cause being shown why judgment should not be pronounced.

IT IS ORDERED THAT:

IMPOSITION SUSPENDED: Imposition of sentence be suspended and defendant be placed on formal probation for 3 years on the following terms and conditions:

TERMS AND CONDITIONS:

1. JAIL: Serve 180 days in the Sacramento County Jail and obey all rules and regulations while there.

Concurrent
Work Furlough recommended

Credit for time served 1 day.

Commencing (stay) 04/20/2001, 05:00 PM, at the Rio Cosumnes Correctional Center.
2. REGISTRATION: Register with the Sheriff or Police department PC 290.
3. The non-custody defendant is ordered to submit to HIV/AIDS testing at the Sacramento County Health Dept., 1500 C Street, Sacramento, (916) 440-7720, pursuant to Section 1202.1 of the Penal Code.
4. Main Jail booking fee \$166.00.
5. Participate in a professional sexual abuse counseling program under the direction of the Probation Officer.
6. Defendant pay through the Court's installments process the amount determined after an evaluation and recommendation of ability to pay and for development of a payment schedule for court-ordered costs, fees, fines, and restitution within five (5) days of sentencing or within five (5) days of release from custody.

XREF - 2126560 DEFENDANT ~~LOME~~ - ROSENTHAL, DAVID

CASE NUMBER - 00F10001

7. Do not contact directly or indirectly with the victim without the prior approval of the probation officer, victim Bridget Gobeia.
8. Obey all laws.
9. Defendant not to treat women or minor children during period of probation or if Medical Board of California determines differently.
10. Fines, fees, assessments and restitution payable through the court's installment process, which may include the Department of Revenue Recovery.
11. \$42.00 monthly probation supervision costs, and \$227.00 for the pre-sentence report.
12. A criminal Court protective order protecting the victim from further acts of violence, threats, stalking, sexual abuse, harassment, and, if appropriate, residence exclusion or stay away conditions pursuant to Section 1203.097(b) of the Penal Code.
13. Pay restitution fine assessment of \$100.00 (GC 13967).
14. Restitution as determined by the Department of Revenue Recovery (DRR). To victim Bridget Gobeia.
15. Report to and comply with all suggestions, directives and recommendations of the Probation Officer, within 48 hours of release. Comply with general conditions of probation specified on the following page.
16. Defendant shall submit his/her person, property and automobile and any object under defendant's control to search and seizure in or out of the presence of the defendant, by any law enforcement officer and/or probation officer, at a time of the day or night, with or without his consent, with or without a warrant. Defendant being advised of his/her constitutional rights in this regard, and having accepted probation, is deemed to have waived same.
17. It is the further Order of the Court that you shall, during your term of probation, comply in all respects with the following General Conditions of probation as authorized by the provisions of the Probation Statutes of the State of California. Further, that you shall comply in all respects with any Special Conditions of Probation contained in your Order of Probation or which may subsequently be ordered by the Court or the Probation Officer.
 1. Obey all laws applicable to you.
 2. Seek and maintain employment approved by the Probation Officer having your supervision; not voluntarily change employment without having first gained approval for such change; or if discharged, or if your employment terminated (either permanently or temporarily) for any cause whatsoever, are to notify your Probation Officer within 48 hours.
 3. You are not to remain away from your regular residence for more than 48

XREF - 2126560 DEFENDANT NAME - ROSENTHAL, DAVID

CASE NUMBER - 00F10001

hours without having first secured permission from your Probation Officer. You are to notify your Probation Officer at once of any intended change of address and the reasons therefor.

4. You are to follow in all respects any reasonable instructions given to you by the Probation Officer having your supervision.
5. You are to report in person to the Division of Adult Probation at such times and dates as the Probation Officer having your supervision may direct. (for any reason beyond your control you are unable to report on your assigned date and time, you shall communicate this fact to the Division of Adult Probation on or before the assigned date.)
6. You shall allow Probation Officers to visit your home and place of employment at reasonable times.
7. DRR: If referred to the Department of Revenue Recovery (DRR) you are required to report to DRR and comply with payment terms established by DRR for payment of any fine and/or restitution imposed by the Court as a term and condition of probation. Further, you shall comply with all reasonable instructions and directives given by DRR.
8. DRR: If referred to the Department of Revenue Recovery (DRR) you are required to report to DRR for a financial evaluation and recommendation on ability to pay costs for appointed counsel, presentence report, probation supervision, incarceration or other authorized costs, as may be applicable in this case.

You are advised that failure by you to comply with all of the foregoing General Conditions of Probation or any Special Conditions of Probation will make you liable (1) to have this probation revoked, extended or amended which may result in the imposition of any sentence the Court could have imposed on you before

you were placed on probation, (2) your confinement in the County Jail for intermittent periods, (3) the extension of your probation up to the maximum provided by law, (4) the change of or adding to the condition of your probation within the limits of the Probation Statutes.

Paul Marlette

PATRICK MARLETTE
JUDGE OF THE MUNICIPAL COURT

DEPT 63 DATE 03/13/2001 CLERK OF THE COURT K PRATCHEN

