

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

In the Matter of the Accusation and First )  
Amended and Supplemental Accusation )  
Against: )

ROBERT SINAIKO, M.D. )

File No. 13 1993 28495

Physician's and Surgeon's )  
Certificate No. G 24199 )

Respondent. )

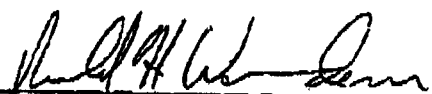
**DECISION**

The attached Stipulated Settlement and Agreement after remand from the Superior Court is hereby adopted as the Decision and Order of 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 February 25, 2005.

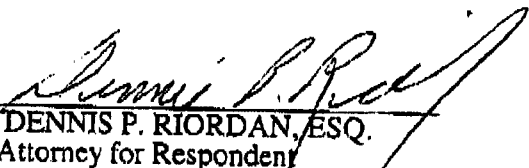
IT IS SO ORDERED February 25, 2005.

MEDICAL BOARD OF CALIFORNIA

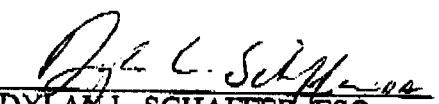
By:   
Ronald H. Wender, M.D., Acting Chair  
Panel B  
Division of Medical Quality

1 I have read the above Stipulated Settlement And Agreement and approve of it as  
2 to form and content. I have fully discussed the terms and conditions and other matters therein  
3 with respondent Robert Sinaiko, M.D.

4  
5 DATED: Feb. 9, 2005

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8   
9 DENNIS P. RIORDAN, ESQ.  
Attorney for Respondent

10 DATED: Feb. 7, 2005

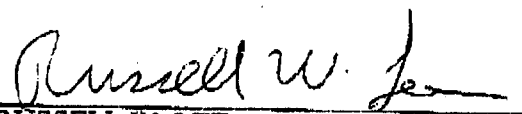
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12   
13 DYLAN L. SCHAFFER, ESQ  
Attorney for Respondent

14 **ENDORSEMENT**

15 The foregoing Stipulated Settlement is hereby respectfully submitted  
16 for consideration of the Division of Medical Quality, Medical Board of California, Department of  
17 Consumer Affairs.

18  
19 DATED: 2-10-05

20 BILL LOCKYER, Attorney General  
of the State of California

21  
22   
23 RUSSELL W. LEE  
24 Deputy Attorney General

25 Attorneys for Complainant

26 Dylan 9



1 BILL LOCKYER, Attorney General  
of the State of California  
2 VIVIEN H. HARA  
Supervising Deputy Attorney General  
3 RUSSELL W. LEE, State Bar No. 94106  
Deputy Attorney General  
4 California Department of Justice  
1515 Clay Street, 20<sup>th</sup> Floor  
5 P.O. Box 70550  
Oakland, CA 94612-0550  
6 Telephone: (510) 622-2217  
Facsimile: (510) 622-2121

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 Accusation and First  
Amended and Supplemental Accusation Against:

13 ROBERT SINAIKO, M.D.  
14 490 Post Street, Suite 1606  
San Francisco, CA 94102

15 Physician and Surgeon's Certificate No. G 24199

16 Respondent.  
17

MBC Case No. 13 93 28495

**STIPULATED SETTLEMENT AND  
AGREEMENT**

18 In the interest of a prompt and speedy settlement of this matter, consistent with the  
19 public interest and the responsibility of the Division of Medical Quality, Medical Board of  
20 California, Department of Consumer Affairs ("Division") the parties hereby agree to the  
21 following Stipulated Settlement and Agreement ("Stipulated Settlement"), which will be  
22 submitted to the Division for its approval and adoption as the final disposition of all claims and  
23 matters arising out of or connected with the Matter of the Accusation and First Amended and  
24 Supplemental Accusation Against Robert Sinaiko, M.D..

25 **PARTIES**

26 1. At the time of the filing of the Accusation and First Amended and  
27 Supplemental Accusation in Case No. 13 93 28495, Ron Joseph was the Executive Director of  
28 the Medical Board of California and brought said actions solely in his official capacity as

1 complainant. David T. Thornton is now the Executive Director of the Medical Board of  
2 California, and is represented in this matter by Bill Lockyer, Attorney General of the State of  
3 California, by Russell W. Lee, Deputy Attorney General.

4 2. Respondent Robert Sinaiko, M.D., ("respondent" or "Dr. Sinaiko") is  
5 represented in this matter by Dennis P. Riordan, Esq., and Dylan L. Schaffer, Esq., Riordan &  
6 Horgan, Attorneys at Law, 523 Octavia Street, San Francisco, CA 94102, (415) 431-3472.

7 3. At all times relevant herein, respondent has been licensed by the Medical  
8 Board of California ("Medical Board") under Physician and Surgeon Certificate No. G 24199.

9 **MATTER OF THE ACCUSATIONS AND JURISDICTION**

10 4. The Accusation and First Amended and Supplemental Accusation in Case  
11 No. 13 93 28495 ("Accusations") were filed before the Division on November 1, 1996, and  
12 February 27, 1997, respectively. The Accusations, together with all other statutorily required  
13 documents, were duly served on the respondent in accordance with the California Administrative  
14 Procedure Act and respondent timely filed a Notice of Defense (contesting the Accusations). A  
15 copy of said Accusations are attached as Exhibit A and incorporated herein by reference.

16 5. On September 3, 1999, subsequent to an administrative hearing on the  
17 Accusations, and reconsideration proceedings, the Division issued a Decision After  
18 Reconsideration, placing respondent on probation.

19 6. On October 29, 1999, Dr. Sinaiko filed a Petition for Writ of  
20 Administrative Mandamus in the Superior Court, County of Sacramento, Case No. 99CS02275.  
21 On September 25, 2003, the Superior Court, issued a Judgment denying Dr. Sinaiko's Petition  
22 for Writ of Administrative Mandamus.

23 7. On September 26, 2003, Dr. Sinaiko filed a Petition For Writ of Mandate  
24 Pursuant To Business and Professions Code Section 2337 (extraordinary writ) with the Court of  
25 Appeal in Sacramento, Case No. C045502. On September 30, 2004, the Court of Appeal issued  
26 a decision directing the Superior Court to vacate its Judgment denying the Petition for Writ of  
27 Administrative Mandamus, and to enter a new Judgment Granting the Petition and remanding the  
28 matter to the Medical Board for further proceedings consistent with the Court of Appeal opinion,

1 and ordering that Dr. Sinaiko shall recover costs on appeal. On November 30, 2004, the Court of  
2 Appeal issued a Peremptory Writ of Mandate and Remittitur directing the Superior Court to  
3 comply with the Court of Appeal decision, which had become final.

4 8. On January 28, 2005, the Superior Court issued an Order Granting Petition  
5 of Robert Sinaiko, M.D., For Administrative Mandamus, remanding the matter to the Medical  
6 Board for further proceedings consistent with the Court of Appeal decision. On February 2,  
7 2005, said Order was served on the Medical Board.

8 9. The Division now has jurisdiction to proceed with the Matter of the  
9 Accusation and First Amended and Supplemental Accusation in Case No. 13 93 28495,  
10 consistent with the Court of Appeal decision, and to enter into this Stipulated Settlement.

#### 11 AGREEMENTS

12 10. Respondent, on behalf of himself, his administrators, attorneys,  
13 representatives, and assigns, fully and forever releases and discharges, the State of California,  
14 Medical Board of California, and their or its agents, employees, servants, and other  
15 representatives whomsoever, from all claims, demands, damages, actions and causes of actions  
16 of every nature, kind, and description, in law, equity, or otherwise, whether or not now known or  
17 ascertained, which do or may exist, including but not limited to, claims for attorney fees, court  
18 costs<sup>1</sup>, other costs of suit, state and federal civil rights claims, directly or indirectly arising out of  
19 or in any way connected with the Matter of the Accusation and First Amended and Supplemental  
20 Accusation in Case No. 13 93 28495.

21 11. Respondent further, on behalf of himself, his administrators, attorneys,  
22 representatives, and assigns, covenants not to sue or otherwise institute or cause to be instituted  
23 or any way participate in legal or administrative proceedings against the State of California,  
24 Medical Board of California, and their or its agents, employees, servants, and other  
25

26 1. The Medical Board, however, shall pay the Order Awarding Costs To Robert Sinaiko  
27 issued by the Superior Court on January 28, 2005, Superior Court Case No. 99CS02275, in the  
28 amount of \$3,861.58. The check shall be made payable to "Riordan & Horgan" and shall  
constitute full satisfaction of said Order.

1 representatives whomsoever, with respect to any and all claims, demands, damages, actions and  
2 causes of actions of every nature, kind, and description, in law, equity, or otherwise, whether or  
3 not now known or ascertained, which do or may exist, including but not limited to, claims for  
4 attorney fees, court costs, other costs of suit, state and federal civil rights claims, directly or  
5 indirectly arising out of or in any way connected with the Matter of the Accusation and First  
6 Amended and Supplemental Accusation in Case No. 13 93 28495.

7           12. This Stipulated Settlement extends to all claims of every nature and kind,  
8 known or unknown, suspected or unsuspected, past or present, arising from or attributable to the  
9 Matter of the Accusation and First Amended and Supplemental Accusation in Case No. 13 93  
10 28495 ("Matter of the Accusations") and the subject matter of the Matter of the Accusations.  
11 Any and all rights granted to the respondent under section 1542 of the California Civil Code or  
12 any analogous state law or federal law or regulation are hereby expressly waived. Said section  
13 1542 of the Civil Code of the State of California reads as follows:

14           "A general release does not extend to claims which the creditor does not know or  
15 suspect to exist in his or her favor at the time of executing the release, which if  
16 known by him or her must have materially affected his or her settlement with the  
17 debtor."

18           13. The Medical Board of California shall withdraw the Accusation and First  
19 Amended and Supplemental Accusation in Case No. 13 93 28495, and vacate its Decision After  
20 Reconsideration of September 3, 1999.<sup>2</sup>

21  
22  
23           2. The Medical Board of California will publish a summary of the contents of the Stipulated  
24 Settlement and Agreement in its Hot Sheets, will provide a copy of the Stipulated Settlement and  
25 Agreement to the National Practitioner Data Bank/Health Integrity And Protection Data Bank,  
26 and will take necessary steps to advise the National Practitioners Data Bank/Health Integrity And  
27 Protection Data Bank to void and expunge the record of the disciplinary proceedings from Dr.  
28 Sinaiko's listing with the National Practitioner Data Bank/Health Integrity And Protection Data  
Bank. The information published in the Hot Sheets shall state as follows: "Original discipline on  
September 3, 1999. The Court of Appeal reversed that Decision. The Medical Board of  
California has withdrawn the Accusations and vacated its Decision. Dr. Sinaiko's certificate is  
fully restored in good standing." The listing for Dr. Sinaiko on the California Medical Board's

