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BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: JOHNNY THOMAS LANG 5504 Ginger Drive Bakersfield, CA 93309 Pharmacist License No. RPH 50571 Respondent.	Case No. 3242 **ACCUSATION**

Complainant alleges:

PARTIES

1. Virginia K. Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

2. On or about September 29, 1998, the Board of Pharmacy ("Board") issued Pharmacist License Number RPH 50571 to Johnny Thomas Lang (Respondent). Respondent's Pharmacist License will expire on November 30, 2009, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 4300 of the Code states, in pertinent part:

"(a) Every license issued may be suspended or revoked.

"(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

"(3) Suspending his or her right to practice for a period not exceeding one year.

"(4) Revoking his or her license.

"(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper. . . .

5. Section 4301 of the Code states:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

* * * *

"(n) The revocation, suspension, or other discipline by another state of a license to practice pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter. . . .

COST RECOVERY

6. Section 125.3 of the Code provides, in pertinent part, that 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.

FIRST CAUSE FOR DISCIPLINE

(Disciplinary Action by the State of Oregon Board of Pharmacy)

7. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (f), on the ground of unprofessional conduct, in that he was the subject of two

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disciplinary orders issued by the State of Oregon Board of Pharmacy, as specified in the following paragraphs:

A. **Consent Order 2007-0107 (Probation)**. On or about August 20, 2007, the State of Oregon Board of Pharmacy (Oregon Board) issued a Notice of Proposed Disciplinary Action ("Notice") in Case No. 2007-0107 against Respondent. The Notice alleged that from approximately 2005 until March 2007, while employed at Rite Aid #5323, located at 14625 SW Allen Blvd., Beaverton, Oregon, Respondent was disciplined for unlawful possession of prescription drugs and illegal use of drugs, and medications without a practitioner's prescription in violation of Oregon's regulation and statute governing the practice of pharmacy.

In a Consent Order executed on September 7, 2007, Respondent was placed on probation in Case No. 2007-0107 for violations that included illegally obtaining, possessing, and using prescription controlled substances from approximately 2005 to March 2007.

Conditions of probation included joining and complying with all conditions of the Pharmacy Recovery Network (PRN), complying with all laws and rules regarding pharmacy practice, and during the five (5) year probationary period, as soon as reasonably practical, providing all present and prospective pharmacy related employers and any pharmacists-in-charge (PIC) of the licensee with a copy of the Notice and the final order in Case No. 2007-0107 and having the PIC and management acknowledge to the Board in writing, on a form supplied by the Board, that the PIC and management have received a copy of both the Notice and the Order and submit said written acknowledgement to the Board office by certified mail (or any other method approved by the Board in writing) within 15 calendar days and retain receipt of verification of delivery to the Board office.

In a Consent Order executed on February 28, 2008, Respondent admitted that the allegations in the Notice were true, that legal cause existed to discipline his pharmacist license, and that he consented to disciplinary action in the form of a five year probationary period.

B. **Consent Order 2008-0063 (Revocation)**. On or about February 28, 2008, the Oregon Board issued a subsequent Consent Order in Case No. 2008-0063. The Consent Order concluded that Respondent had violated Oregon law in the following manner:

(1) Respondent failed to notify his pharmacy related employers of his Notice and Order in Case No. 2007-0107 and failed to provide the required written notification to the Board as required by his probation and failed to comply with all conditions of his PRN contract, and he was dishonest with Board staff and PRN staff when questioned about his employment; and (2) Respondent illegally obtained, possessed, and used prescription controlled substances after being placed on probation in Case No. 2007-0107; and (3) Respondent agreed on or about December 12, 2007 to the PRN Director that he would not enter a pharmacy due to non-compliance with his PRN contract; and (4) Respondent, after meeting with both the Board Compliance Director and the PRN Director that he was still barred from entering a pharmacy due to additional non-compliance with his PRN contract and his Board Probation; and (5) Respondent had been working in a pharmacy on a regular basis since the above aforementioned agreement; and (6) Respondent failed to comply with his probation and all laws and rules regarding pharmacy practice; and (7) Respondent's violations of Oregon law constitute unprofessional conduct.

The Oregon Board revoked Respondent's pharmacist license on the basis of these violations.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that, following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacist License Number RPH 50571, issued to Johnny Thomas Lang;

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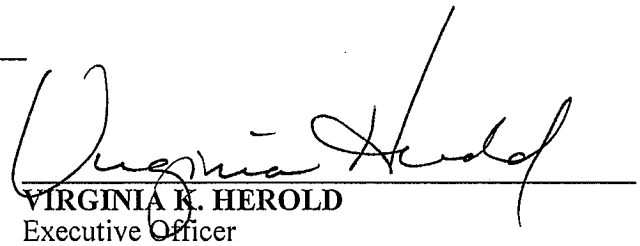
2. Ordering Johnny Thomas Lang to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 4/10/09



VIRGINIA K. HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California

Complainant