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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 3492

12 **JOYCE LYNN RUTAN**
13 **P.O. Box 4336**
Stockton, CA 95204
14 **Registered Pharmacist License No. RPH**
28387

A C C U S A T I O N

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 21 2. On or about August 10, 1973, the Board of Pharmacy issued Registered Pharmacist
22 License Number RPH 28387 to Joyce Lynn Rutan ("Rutan"). The Registered Pharmacist License
23 was in full force and effect at all times relevant to the charges brought herein and will expire on
24 August 31, 2012, unless renewed.

25 **JURISDICTION**

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

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

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

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

5 "(1) Suspending judgment.

6 "(2) Placing him or her upon probation.

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

9 "(4) Revoking his or her license.

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

11 5. Section 4301 of the Code states in pertinent part:

12 "The board shall take action against any holder of a license who is guilty of unprofessional
13 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

14 Unprofessional conduct shall include, but is not limited to, any of the following:

15 "(f) The commission of any act involving moral turpitude, dishonesty,
16 fraud, deceit, or corruption, whether the act is committed in the course of relations as
a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

17 "(j) The violation of any of the statutes of this state, or any other state, or
18 of the United States regulating controlled substances and dangerous drugs.

19 "(l) The conviction of a crime substantially related to the qualifications,
20 functions, and duties of a licensee under this chapter. The record of conviction of a
21 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
22 States Code regulating controlled substances or of a violation of the statutes of this
23 state regulating controlled substances or dangerous drugs shall be conclusive
24 evidence of unprofessional conduct. In all other cases, the record of conviction shall
25 be conclusive evidence only of the fact that the conviction occurred. The board may
26 inquire into the circumstances surrounding the commission of the crime, in order to
27 fix the degree of discipline or, in the case of a conviction not involving controlled
28 substances or dangerous drugs, to determine if the conviction is of an offense
substantially related to the qualifications, functions, and duties of a licensee under this
chapter. A plea or verdict of guilty or a conviction following a plea of nolo
contendere is deemed to be a conviction within the meaning of this provision. The
board may take action when the time for appeal has elapsed, or the judgment of
conviction has been affirmed on appeal or when an order granting probation is made
suspending the imposition of sentence, irrespective of a subsequent order under
Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
dismissing the accusation, information, or indictment.

1 "(o) Violating or attempting to violate, directly or indirectly, or assisting
2 in or abetting the violation of or conspiring to violate any provision or term of this
chapter or of the applicable federal and state laws and regulations governing
3 pharmacy, including regulations established by the board or by any other state or
4 federal regulatory agency."

5 6. Section 125.3 of the Code states, in pertinent part, that the Board may request the
6 administrative law judge to direct a licensee found to have committed a violation or violations of
7 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8 enforcement of the case.

9 7. Section 4060 of the Code states:

10 "No person shall possess any controlled substance, except that furnished
11 to a person upon the prescription of a physician, dentist, podiatrist, optometrist,
12 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
13 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
14 nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to
15 Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist
16 pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
17 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section
18 shall not apply to the possession of any controlled substance by a manufacturer,
19 wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,
20 veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or
21 physician assistant, when in stock in containers correctly labeled with the name and
22 address of the supplier or producer."

23 "Nothing in this section authorizes a certified nurse-midwife, a nurse
24 practitioner, a physician assistant, or a naturopathic doctor, to order his or her own
25 stock of dangerous drugs and devices."

26 8. Health and Safety Code section 11377, subd. (a) provides;

27 “(a) Except as authorized by law and as otherwise provided in subdivision
28 (b) or Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of
Division 2 of the Business and Professions Code, every person who possesses any
controlled substance which is (1) classified in Schedule III, IV, or V, and which is not
a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs
(13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph (1) of
subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of subdivision
(f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section 11055,
unless upon the prescription of a physician, dentist, podiatrist, or veterinarian,
licensed to practice in this state, shall be punished by imprisonment in a county jail
for a period of not more than one year or in the state prison.”

 9. Health and Safety Code section 11350, subd. (a) provides;

 “(a) Except as otherwise provided in this division, every person who
possesses (1) any controlled substance specified in subdivision (b) or (c), or

1 paragraph(1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or
2 (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of
3 Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled
4 substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon
5 the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to
6 practice in this state, shall be punished by imprisonment in the state prison."

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10 10. Section 118 of the Code states in pertinent part:

11 A(b) The suspension, expiration, or forfeiture by operation of law of a
12 license issued by a board in the department, or its suspension, forfeiture, or
13 cancellation by order of the board or by order of a court of law, or its surrender
14 without the written consent of the board, shall not, during any period in which it may
15 be renewed, restored, reissued, or reinstated, deprive the board of its authority to
16 institute or continue a disciplinary proceeding against the licensee upon any ground
17 provided by law or to enter an order suspending or revoking the license or otherwise
18 taking disciplinary action against the licensee on any such ground."

19 11. On or about November 8, 2007, a search warrant was served at the residence of
20 Ronald Juliana and Joyce Rutan located at 401 Buena Vista Drive, Coalinga, California. The
21 search uncovered several controlled substances in quantities and labeled in a manner that were
22 not for individual consumption. On that same date a search warrant uncovered controlled
23 substances at 4301 3 Hale Ranch, Fair Oaks, California, also owned by Ronald Juliana and Joyce
24 Rutan, or their relatives.

25 DRUGS

26 12. "Dilaudid," a brand of hydromorphone, is a Schedule II controlled substance as
27 designated by Health and Safety Code section 11055(b)(1)(K).

28 13. "Tylenol with Codeine No. 3" is a compound consisting of 30 mg. of codeine, a
Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(2),
and 300 mg. acetaminophen per tablet.

14. "Vicodin" is a compound consisting of 5 mg. hydrocodone bitartrate also known as
dihydrocodeinone, a Schedule III controlled substance as designated by Health and Safety Code
section 11056(e)(4), and 500 mg. acetaminophen per tablet.

15. "Xanax" is a brand of Alprazolam, is a Schedule IV controlled substance as
designated by Health and Safety Code section 11057(d) (1).

16. "Ativan," a brand of lorazepam, is a Schedule IV controlled substance as
designated by Health and Safety Code section 11057(d)(16).

1 17. "Librium," a brand name for chlordiazepoxide, is a Schedule IV controlled
2 substance as designated by Health and Safety Code section 11057(d)(5).

3 18. "Dalmane," a brand of flurazepam hydrochloride, is a Schedule IV controlled
4 substance as designated by Health and Safety Code section 11057(d)(14).

5 19. "Dianabol", a brand name of Methandrostenolone, is a Schedule III controlled
6 substance as designated by Health and Safety Code section 11056(f) (15).

7 20. "Demerol," a brand of meperidine hydrochloride, a derivative of pethidine, is a
8 Schedule II controlled substance as designated by Health and Safety Code section 11055(c)(17).

9 21. "Methadone" is a controlled substance as designated by Health And Safety Code
10 section 11055 (c)(14)

11 22. "Percodan," a brand of oxycodone, is a Schedule II controlled substance as
12 designated by Health and Safety Code section 11055(b)(1)(N). Each tablet contains 4.50 mg.
13 oxycodone hydrochloride, 0.38 mg. oxycodone terephthalate, and 325 mg. aspirin.

14 23. "Phentermine," is a Schedule IV controlled substance as designated by Health and
15 Safety Code section 11057(f)(4).

16 24. "Restoril," a brand of temazepam, is a Schedule IV controlled substance under
17 Business and Professions Code section 11057(d)(29).

18 25. "Valium," a brand of diazepam, is a Schedule IV controlled substance as
19 designated by Health and Safety Code section 11057(d)(9).

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21 **FIRST CAUSE FOR DISCIPLINE**
(Unprofessional Conduct)

22 26. Respondent Rutan is subject to disciplinary action under Code section 4301 (f) in
23 that during a search at 401 Buena Vista Drive, Coalinga, California, the following schedule drugs
24 were found which appeared to be rightfully owned by another person or facility:

25 1. Plastic bag with "Pleasant Valley State Prison" ("PVSP") containing 832
26 Welbutrin 200 mg. tablets and 1,625 Welbutrin 300 mg. tablets

27 2. Plastic bag with PVSP label containing 140 Doxycycline 100 mg. capsules.
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1 29. Respondent Rutan is subject to disciplinary action under Code section 4060
2 following a search warrant executed at 4301 Hale Ranch, Fair Oaks, California, she was found in
3 possession of the following controlled substances:

- 4 1. Total of 682 tablets of Diazepam
- 5 2. Total of 256 tablets of Tylenol with Codeine #3
- 6 3. Total of 658 tablets of Xanax
- 7 4. Total of 419 tablets of Vicodin
- 8 5. 41 tablets of Lortabs
- 9 6. 40 Ambien
- 10 7. Total of 1, 171 tablets of Ativan
- 11 8. Total of 841 capsules of Restoril
- 12 9. Total of 815 capsules of Darvocet N
- 13 10. 8 Morphine suppositories
- 14 11. 22 capsules of Phentermine 30 mg
- 15 12. 9 tablets of Codeine
- 16 13. Total of 466 Librium capsules
- 17 14. Total of 51 grams Marijuana
- 18 15. 190 Dalmane
- 19 16. 214 Bromazepam
- 20 17. 14 Quaaludes
- 21 18. 47 Ampoules Meperidine
- 22 19. 16 Dilaudid ampoules
- 23 20. 194 tablets of Dianabol
- 24 21. Total of 300 tablets of Methadone
- 25 22. 113 tablets of Percodan
- 26 23. Bottle of Tussionex
- 27 24. 13 tablets of Percocet

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- 1 25. 40 tablets Talwin
- 2 26. Total 165 tablets of Clonazepam
- 3 27. Pint bottle of Actifed with Codeine

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5 **THIRD CAUSE FOR DISCIPLINE**
6 **(Unlawful Possession Controlled substances)**

7 30. Respondent Rutan is subject to disciplinary action under Code section 4301 (j) in
8 conjunction with Health and Safety Code section 11377, subd. (a) in that following a search
9 warrant executed at 401 Buena Vista Drive, Coalinga, California, she was found to be in
10 possession of the following controlled substances:

- 11 1. Two Clonazepam 1 mg.

12 31. Respondent Rutan is subject to disciplinary action under Code section Health and
13 Safety Code section 11377, subd. (a) in that following a search warrant executed at 4301 Hale
14 Ranch, Fair Oaks, California, she was found to be in possession of the following controlled
15 substances:

- 16 1. Total of 682 tablets of Diazepam
- 17 2. Total of 658 tablets of Xanax
- 18 3. 40 Ambien
- 19 4. Total of 1, 171 tablets of Ativan
- 20 5. Total of 841 capsules of Restoril
- 21 6. Total of 815 capsules of Darvocet N
- 22 7. 22 capsules of Phentermine 30 mg
- 23 8. Total of 466 Librium capsules
- 24 9. 190 Dalmane
- 25 10. 214 Bromazepam
- 26 11. Total 165 tablets of Clonazepam

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FOURTH CAUSE FOR DISCIPLINE
(Unlawful Possession Narcotics)

32. Respondent Rutan is subject to disciplinary action under Code section 4301 (j) in conjunction with Health and Safety Code section 11350(a) in that following a search warrant executed at 401 Buena Vista Drive, Coalinga, California, she was found in possession of the following narcotics:

1. 18 Acetaminophen with Codeine #3
2. 31 Tylenol with Codeine #3

33. Respondent Rutan is subject to disciplinary action under Code section 4301 (j) in conjunction with Health and Safety Code section 11350(a) in that following a search warrant executed at 401 Buena Vista Drive, Coalinga, California, they were found in possession of the following narcotics:

1. 256 tablets of Tylenol with Codeine #3
2. 419 tablets of Vicodin
3. 41 tablets of Lortabs
4. 8 Morphine suppositories
5. 9 tablets of Codeine
6. 47 Ampoules of Merperidine
7. 16 Dialudid Ampoules
8. Total of 300 tablets of Methadone
9. 113 tablets of Percodan
10. Bottle of Tussionex
11. 13 tablets of Percocet
12. Pint of Actifed with Codeine

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1 **FIFTH CAUSE FOR DISCIPLINE**
2 **(Unlawful Possession Narcotics)**

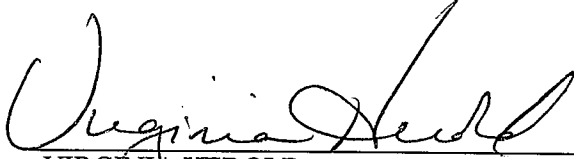
3 34. Respondents Rutan is subject to disciplinary action under Code section 4301 (f)
4 and (l) in that on or about September 28, 2010, in *People v. Ronald Juliana and Joyce Lynn*
5 *Rutan*, Sacramento Superior Court, Case No. 10F02277, respondents were convicted on their plea
6 of nolo contendere to a violation of Revenue and Taxation code section 19701 (a) (repeatedly
7 over a period of two years failing to file a tax return as required.) A crime substantially related to
8 the practice of a pharmacist.

9 **PRAYER**

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

- 12 1. Revoking or suspending Registered Pharmacist License Number RPH 28387,
13 issued to Joyce Lynn Rutan;
- 14 2. Ordering Joyce Rutan to pay the Board of Pharmacy the reasonable costs of the
15 investigation and enforcement of this case, pursuant to Business and Professions Code section
16 125.3; and
- 17 3. Taking such other and further action as deemed necessary and proper.

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19
20 DATED: 1/6/11


21 VIRGINIA HEROLD
22 Executive Officer
23 Board of Pharmacy
24 Department of Consumer Affairs
25 State of California
26 Complainant

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