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1	KAMALA D. HARRIS						
2	Attorney General of California JANICE K. LACHMAN						
3	Supervising Deputy Attorney General LORRIE M. YOST						
4	Deputy Attorney General State Bar No. 119088						
5	1300 I Street, Suite 125 P.O. Box 944255						
6	Sacramento, CA 94244-2550 Telephone: (916) 445-2271						
7	Facsimile: (916) 327-8643 Attorneys for Complainant						
8	BEFORE THE						
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS						
10	STATE OF CONSUMER AFFAIRS STATE OF CALIFORNIA						
11	In the Matter of the Acquestion Against	ase No. 4142					
12		ase No. 4142					
13	JOSHUA COX	C C Y C A THE C Y					
14	Placerville, CA 95667	CCUSATION					
15	Pharmacist License No. RPH 51774						
	Respondent.	·					
16	Respondent.						
16 17							
16 17 18	Complainant alleges:						
16 17 18 19	Complainant alleges:						
16 17 18 19 20	Complainant alleges:	E <u>S</u> nis Accusation solely in her official capacity					
16 17 18 19	Complainant alleges:	nis Accusation solely in her official capacity					
16 17 18 19 20	Complainant alleges: PARTING 1. Virginia Herold (Complainant) brings the as the Executive Officer of the Board of Pharmacy, 1	nis Accusation solely in her official capacity					
16 17 18 19 20 21	Complainant alleges: PARTING 1. Virginia Herold (Complainant) brings the as the Executive Officer of the Board of Pharmacy, 1	Department of Consumer Affairs. of Pharmacy issued Pharmacist License					
16 17 18 19 20 21 22	Complainant alleges: PARTII 1. Virginia Herold (Complainant) brings the as the Executive Officer of the Board of Pharmacy, 2. On or about August 29, 2000, the Board	Department of Consumer Affairs. of Pharmacy issued Pharmacist License The Pharmacist License was in full force and					
16 17 18 19 20 21 22 23	Complainant alleges: PARTIE 1. Virginia Herold (Complainant) brings the as the Executive Officer of the Board of Pharmacy, 2. On or about August 29, 2000, the Board Number RPH 51774 to Joshua Cox (Respondent). To	Department of Consumer Affairs. of Pharmacy issued Pharmacist License The Pharmacist License was in full force and					
16 17 18 19 20 21 22 23 24	Complainant alleges: PARTII 1. Virginia Herold (Complainant) brings the as the Executive Officer of the Board of Pharmacy, 2. On or about August 29, 2000, the Board Number RPH 51774 to Joshua Cox (Respondent). The effect at all times relevant to the charges brought here.	Department of Consumer Affairs. of Pharmacy issued Pharmacist License The Pharmacist License was in full force and					
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Accusation

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 that every license issued may be suspended or revoked.
- 5. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY REFERENCES

6. Section 4301 of the Code states in pertinent part:

"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:

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"(f) The commission of any act involving moral turpitude, dishonesty, 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.

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- "(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.
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- "(j) The violation of any of the statutes of this state, or any other state, or of the United States regulating controlled substances and dangerous drugs."

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7. Section 4022 of the Code states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

- (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.
- (b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.
- (c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

COST RECOVERY

8. 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.

CONTROLLED SUBSTANCES

- 9. Hydrocodone 10/325, also known by the brand name 'Norco', is a mix of 10 mgs. of hydrocodone and 325 mgs. of acetaminophen used as a painkiller. It is designated by Health and Safety Code section 11056 subdivision (e)(4) as a Schedule III controlled substance and is a dangerous drug pursuant to Code section 4022.
- 10. Phentermine is designated by Health and Safety Code section 11057(f)(4) as a Schedule IV controlled substance, and is a dangerous drug pursuant to Code section 4022.
- 11. Lunesta is designated by Health and Safety Code section 11057(d)(32) as a Schedule IV controlled substance and is a dangerous drug pursuant to Code section 4022.
- 12. Clonazepam is designated by Health and Safety Code Section 11057(d)(7) as a Schedule IV controlled substance and is a dangerous drug pursuant to Code section 4022.

13. Xanax" is designated by Health and Safety Code Section 11057(d)(1) as a Section IV controlled substance and is a dangerous drug pursuant to Code section 4022.

FIRST CAUSE FOR DISCIPLINE

(Acts of Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

- 14. Respondent is subject to disciplinary action under section 4301 subdivision (f) in that he engaged in unprofessional conduct. The circumstances are as follows:
- 15. On or about May 16, 2011 and May 18, 2011, and at various times from February through May of 2011, Respondent used his position as a float pharmacist employed at several Rite Aid pharmacies to enable him to steal Hydrocodone 10/325 from his employer. He was observed on videotape taking the drugs on May 16 and 18, 2011. His deceit has caused a financial loss to Rite Aid in the amount of \$943.78, the value of the drugs stolen.

SECOND CAUSE FOR DISCIPLINE

(Administering To Oneself A Controlled Substance, Or The Use Of Any Dangerous Drug To The Extent Or In A Manner As To Be Dangerous Or Injurious To Oneself)

- 16. Respondent is subject to disciplinary action under section 4301 subdivision (h) in that he engaged in acts of unprofessional conduct. The circumstances are as follows:
- 17. Commencing on a date unknown and continuing until through July of 2011, Respondent has administered to himself a controlled substance, Hydrocodone 10/325, obtained without the use of a prescription, in amounts dangerous to himself. Respondent has admitted to having misused painkillers for 2 1/2 to 3 years. He has admitted to recently taking 60 to 90 pills a day, and sometimes taking them while he is at work, thereby creating a danger to himself and others.

THIRD CAUSE FOR DISCIPLINE

- (Violation Of Any Of The Statutes Of This State, Of Any Other State, Or Of The United States

 Regulating Controlled Substances And Dangerous Drugs.)
- 18. Respondent is subject to disciplinary action under section 4301 subdivision (j), in conjunction with Health and Safety Code sections 11350, 11170, and 11173 subdivision (a) in that he has engaged in acts of unprofessional conduct. The circumstances are as follows:

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1	2.	2. Ordering Joshua Cox to pay the Board of Pharmacy the reasonable costs of the					
2	investigati	investigation and enforcement of this case, pursuant to Business and Professions Code section					
3	125.3;						
4	3.	Taking such other and further action as deemed necessary and proper.					
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8	DATED: _	9/21/11		VIRGINIA HEROLD	Alchman	- for	
9				Executive Officer Board of Pharmacy			
10	·			Department of Consun State of California	ner Affairs		
11				Complainant			
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