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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation and Petition to
12 Revoke Probation Against:

Case Number 4493

13 **LISA ANNE PANAB**
14 **a.k.a Lisa Anne Kesler**
15 **a.k.a. Lisa Ann Kesler**
16 **a.k.a. Lisa Anne Kesler**
17 **5178 Mowry Avenue, #2168**
18 **Fremont, California 94536**
19 **Pharmacist License Number RPH 47276**

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

Respondent.

19 Complainant Virginia Herold alleges:

20 **PARTIES**

21 1. Complainant brings this accusation and petition to revoke probation solely in her
22 official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of
23 Consumer Affairs.

24 2. On or about August 4, 1994, the Board issued Pharmacist License Number RPH
25 47276 to respondent Lisa Anne Panab, a.k.a Lisa Anne Kesler, a.k.a. Lisa Ann Kesler, a.k.a. Lisa
26 Anne Kesler. The pharmacist license was in full force and effect at all times relevant to the
27 charges brought in this accusation and petition to revoke probation and will expire on September
28 30, 2013, unless renewed.

1 **PRIOR DISCIPLINARY ACTIONS**

2 3. The Board issued a Decision and Order effective June 27, 2008, adopting a Stipulated
3 Settlement and Disciplinary Order entitled *In the Matter of the First Amended Accusation Against*
4 *Lisa Anne Panab, a.k.a Lisa Anne Kesler, a.k.a. Lisa Ann Kesler, a.k.a. Lisa Aanne Kesler*, Case
5 Number 3050 (Disciplinary Order). This Disciplinary Order revoked respondent's pharmacist
6 license. However, the revocation was stayed and respondent's pharmacist license was placed on
7 probation for five (5) years with terms and conditions. A copy of that Decision and Order, and
8 Disciplinary Order is attached as exhibit A and is incorporated by reference.

9 **JURISDICTION, AND STATUTORY AND REGULATORY PROVISIONS**

10 **FOR ACCUSATION**

11 4. This accusation is brought before the Board under the authority of the following laws.
12 All section references are to the Business and Professions Code unless otherwise indicated.

13 5. Section 490, subdivision (a), states:

14 "In addition to any other action that a board is permitted to take against a licensee, a board
15 may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if
16 the crime is substantially related to the qualifications, functions, or duties of the business or
17 profession for which the license was issued."

18 6. Section 4011 states:

19 "The board shall administer and enforce this chapter and the Uniform Controlled
20 Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code)."

21 7. Section 4300, subdivision (a), states:

22 "Every license issued may be suspended or revoked."

23 8. Section 4300.1 states:

24 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
25 operation of law or by order or decision of the board or a court of law, the placement of a license
26 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
27 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
28 proceeding against, the licensee or to render a decision suspending or revoking the license."

1 9. Section 4301 states, in pertinent part:

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

5 ...

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

9 ...

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

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1 **CAUSES FOR DISCIPLINE**

2 **FIRST CAUSE FOR DISCIPLINE**
3 **Bus. & Prof. Code, § 490, subd. (a)**
4 **Criminal Conviction**

5 15. The allegations of paragraphs 13-14 are realleged and incorporated by reference as if
6 fully set forth.

7 16. Respondent has subjected her pharmacist license to disciplinary action for a criminal
8 conviction under section 490, subdivision (a). As set forth in paragraphs 13-14 above, respondent
9 was convicted of a misdemeanor violation of Penal Code section 148.9.

10 **SECOND CAUSE FOR DISCIPLINE**
11 **Bus. & Prof. Code, § 4301, subd. (l)**
12 **Unprofessional Conduct – Criminal Conviction**

13 17. The allegations of paragraphs 13-14 are realleged and incorporated by reference as if
14 fully set forth.

15 18. Respondent has subjected her pharmacist license to disciplinary action under section
16 4301, subdivision (l), for unprofessional conduct (criminal conviction). As set forth in
17 paragraphs 13-14 above, respondent was convicted of a misdemeanor violation of Penal Code
18 section 148.9.

19 **THIRD CAUSE FOR DISCIPLINE**
20 **Bus. & Prof. Code, § 4301, subd. (f)**
21 **Unprofessional Conduct – Act Involving Dishonesty, Fraud, Deceit, or Corruption**

22 19. The allegations of paragraphs 13-14 are realleged and incorporated by reference as if
23 fully set forth.

24 20. Respondent has subjected her pharmacist license to disciplinary action under section
25 4301, subdivision (f), for unprofessional conduct (act involving moral turpitude, dishonesty,
26 fraud, deceit, or corruption). As set forth in paragraphs 14-15 above, respondent identified
27 herself to a police officer by a false name, and consequently was convicted of violating Penal
28 Code section 148.9.

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1 disciplinary order which was stayed. If a petition to revoke probation or an accusation is filed
2 against respondent during probation, the Board shall have continuing jurisdiction and the period
3 of probation shall be extended, until the petition to revoke probation or accusation is heard and
4 decided.

5 "If Respondent has not complied with any term or condition of probation, the Board shall
6 have continuing jurisdiction over Respondent, and probation shall automatically be extended until
7 all terms and conditions have been satisfied or the Board has taken other action as deemed
8 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
9 to impose the penalty which was stayed."

10 27. On July 1, 2008, and December 15, 2009, the Board reviewed the terms and
11 conditions of the Disciplinary Order with respondent. After each meeting, respondent signed a
12 declaration confirming her understanding of those terms and conditions.

13 CAUSES TO REVOKE PROBATION

14 **FIRST CAUSE TO REVOKE PROBATION** 15 **Term and Condition 2** 16 **Failure to Report Arrest to the Board**

17 28. At all times after the effective date of respondent's probation, Term and Condition 2
18 of the Disciplinary Order stated:

19 "Obey All Laws. Respondent shall obey all state and federal laws and regulations
20 substantially related to or governing the practice of pharmacy.

21 "Respondent shall report any of the following occurrences to the Board, in writing, within
22 72 hours of such occurrence:

23 "an arrest or issuance of a criminal complaint for violation of any provision of the
24 Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances
25 laws;

26 "a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
27 criminal complaint, information or indictment;

28 "a conviction of any crime;

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1 "discipline, citation, or other administrative action filed by any state and federal agency
2 which involves Respondent's license or which is related to the practice of pharmacy or the
3 manufacturing, obtaining, handling or distribution or billing or charging for any drug, device or
4 control"

5 29. Respondent's probation is subject to revocation because she did not notify the Board
6 in writing within 72 hours after she was arrested on October 21, 2012, and charged with violating,
7 among other sections, Penal Code section 148.9.

8 **SECOND CAUSE TO REVOKE PROBATION**
9 **Term and Condition 4**
10 **Failure to Report to the Board**

11 30. At all times after the effective date of respondent's probation, Term and Condition 4
12 of the Disciplinary Order stated:

13 **"Reporting to the Board.** Respondent shall report to the Board quarterly. The report shall
14 be made either in person or in writing, as directed. Respondent shall state under penalty of
15 perjury whether there has been compliance with all the terms and conditions of probation. If the
16 final probation report is not made as directed, probation shall be extended automatically until
17 such time as the final report is made and accepted by the Board."

18 31. Respondent's probation is subject to revocation because on November 3, 2009, the
19 Board notified respondent to appear in person at a Board probation office conference on
20 November 17, 2009, to review the terms and conditions of her probation. The Board sent this
21 notification by first class and certified mail, and respondent received and signed for the certified
22 letter. Respondent failed to appear for the conference on November 17 and did not contact the
23 Board about her absence. On November 19, the Board spoke with respondent. Respondent stated
24 that she did not attend the office conference on November 17 and did not contact the Board about
25 her absence because she did not open the notification letter.

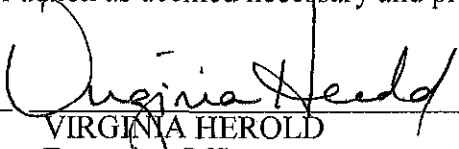
26 **THIRD CAUSE TO REVOKE PROBATION**
27 **Term and Condition 14**
28 **Failure to Notify Employment Change**

32. At all times after the effective date of respondent's probation, Term and Condition 14
of the Disciplinary Order stated:

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3. Ordering Lisa Anne Panab, a.k.a Lisa Anne Kesler, a.k.a. Lisa Ann Kesler, a.k.a. Lisa Anne Kesler, 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; and

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

DATED: 9/19/13 
VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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90329148.doc

Exhibit A

Stipulated Settlement and Disciplinary Order, Decision and Order

Board of Pharmacy Case Number 3050

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

In the Matter of the First Amended Accusation
Against:

LISA ANNE PANAB
a.k.a. LISA ANNE KESLER
a.k.a. LISA ANN KESLER
a.k.a. LISA AANNE KESLER
13061 Rosedale Highway #182
Bakersfield, CA 93312

Pharmacist License No. RPH 47276

Respondent.

Case No. 3050

OAH No. L-2007060143

DECISION AND ORDER

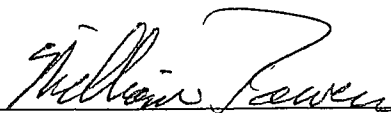
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by
the Board of Pharmacy as its Decision in this matter.

This Decision shall become effective on June 27, 2008.

It is so ORDERED May 28, 2008.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



WILLIAM POWERS
Board President

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 LINDA L. SUN, State Bar No. 207108
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-6375
Facsimile: (213) 897-2804

6 Attorneys for Complainant
7

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

11 In the Matter of the First Amended Accusation
Against:

12 LISA ANNE PANAB
13 a.k.a. LISA ANNE KESLER
a.k.a. LISA ANN KESLER
14 a.k.a. LISA AANNE KESLER
15 13061 Rosedale Highway #182
Bakersfield, CA 93312

16 Pharmacist License No. RPH 47276

17 Respondent.
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Case No. 3050

OAH No. L-2007060143

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

22 **PARTIES**

23 1. Virginia Herold (Complainant) is the Executive Officer of the Board of
24 Pharmacy (Board). She brought this action solely in her official capacity and is represented in
25 this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Linda L.
26 Sun, Deputy Attorney General.

27 2. Respondent is represented in this proceeding by attorney Samuel Spital,
28 whose address is 8880 Rio San Diego Dr., #800, San Diego, CA 92108.

1 CULPABILITY

2 8. Respondent understands and agrees that the charges and allegations in
3 First Amended Accusation No. 3050, if proven at a hearing, constitute cause for imposing
4 discipline upon her Pharmacist License.

5 9. For the purpose of resolving the First Amended Accusation without the
6 expense and uncertainty of further proceedings, Respondent agrees that, at a hearing,
7 Complainant could establish a factual basis for the charges in the First Amended Accusation, and
8 that Respondent hereby gives up her right to contest those charges.

9 10. Respondent agrees that her Pharmacist License is subject to discipline and
10 she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary
11 Order below.

12 RESERVATION

13 11. The admissions made by Respondent herein are only for the purposes of
14 this proceeding, or any other proceedings in which the Board or other professional licensing
15 agency is involved, and shall not be admissible in any other criminal or civil proceeding.

16 CONTINGENCY

17 12. This Stipulation shall be subject to approval by the Board. Respondent
18 understands and agrees that counsel for Complainant and the staff of the Board may
19 communicate directly with the Board regarding this stipulation and settlement, without notice to
20 or participation by Respondent or her counsel. By signing the stipulation, Respondent
21 understands and agrees that she may not withdraw her agreement or seek to rescind the
22 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
23 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
24 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
25 the parties, and the Board shall not be disqualified from further action by having considered this
26 matter.

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- 1 • an arrest or issuance of a criminal complaint for violation of any provision of the
- 2 Pharmacy Law, state and federal food and drug laws, or state and federal
- 3 controlled substances laws;
- 4 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to
- 5 any criminal complaint, information or indictment;
- 6 • a conviction of any crime;
- 7 • discipline, citation, or other administrative action filed by any state and federal
- 8 agency which involves Respondent's license or which is related to the practice
- 9 of pharmacy or the manufacturing, obtaining, handling or distribution or billing
- 10 or charging for any drug, device or controlled substance.

11 **3. Reporting to the Board.** Respondent shall report to the Board
12 quarterly. The report shall be made either in person or in writing, as directed. Respondent
13 shall state under penalty of perjury whether there has been compliance with all the terms and
14 conditions of probation. If the final probation report **is not** made as directed, probation shall
15 be extended automatically until such time as the final report is made and accepted by the
16 Board.

17 **4. Interview with the Board.** Upon receipt of reasonable notice,
18 Respondent shall appear in person for interviews with the Board upon request at various
19 intervals at a location to be determined by the Board. Failure to appear for a scheduled
20 interview without prior notification to Board staff shall be considered a violation of probation.

21 **5. Cooperation with Board Staff.** Respondent shall cooperate with the
22 Board's inspection program and in the Board's monitoring and investigation of Respondent's
23 compliance with the terms and conditions of her probation. Failure to comply shall be
24 considered a violation of probation.

25 **6. Continuing Education.** Respondent shall provide evidence of efforts
26 to maintain skill and knowledge as a pharmacist as directed by the Board.

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1 7. **Notice to Employers.** Respondent shall notify all present and
2 prospective employers of the decision in Case No. 3065 and the terms, conditions and
3 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of
4 this decision, and within 15 days of Respondent undertaking new employment, Respondent
5 shall cause her direct supervisor, pharmacist-in-charge and/or owner to report to the Board in
6 writing acknowledging the employer has read the decision in Case No. 3065.

7 If Respondent works for or is employed by or through a pharmacy employment
8 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at
9 every pharmacy of the and terms conditions of the decision in Case No. 3065 in advance of the
10 Respondent commencing work at each pharmacy.

11 "Employment" within the meaning of this provision shall include any full-time,
12 part-time, temporary, relief or pharmacy management service as a pharmacist,
13 whether the Respondent is considered an employee or independent contractor.

14 8. **No Preceptorships, Supervision of Interns, Being Pharmacist-in-**
15 **Charge (PIC), or Serving as a Consultant.** Respondent shall not supervise any intern
16 pharmacist or perform any of the duties of a preceptor, nor shall Respondent be the
17 pharmacist-in-charge of any entity licensed by the Board unless otherwise specified in this
18 order.

19 9. **No Ownership of Premises.** During the period of probation,
20 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
21 administrator, member, officer, director, associate, or partner of any business, firm,
22 partnership, or corporation currently or hereinafter licensed by the Board. Respondent shall
23 sell or transfer any legal or beneficial interest in any entity licensed by the Board within 90
24 days following the effective date of this decision and shall immediately thereafter provide
25 written proof thereof to the Board.

26 10. **Reimbursement of Board Costs.** Respondent shall pay to the Board
27 its costs of investigation and prosecution in the amount of seven-thousand eight-hundred and
28 fifty dollars (\$7,850). Respondent shall make said payments in quarterly installments.

1 The filing of bankruptcy by Respondent shall not relieve Respondent of her
2 responsibility to reimburse the Board its costs of investigation and prosecution.

3 **11. Probation Monitoring Costs.** Respondent shall pay the costs
4 associated with probation monitoring as determined by the Board each and every year of
5 probation. Such costs shall be payable to the Board at the end of each year of probation.
6 Failure to pay such costs shall be considered a violation of probation.

7 **12. Status of License.** Respondent shall, at all times while on probation,
8 maintain an active current license with the Board, including any period during which
9 suspension or probation is tolled.

10 If Respondent's license expires or is canceled by operation of law or otherwise,
11 upon renewal or reapplication, Respondent's license shall be subject to all terms and
12 conditions of this probation not previously satisfied.

13 **13. License Surrender while on Probation/Suspension.** Following the
14 effective date of this decision, should Respondent cease practice due to retirement or health, or
15 be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender
16 her license to the Board for surrender. The Board shall have the discretion whether to grant
17 the request for surrender or take any other action it deems appropriate and reasonable. Upon
18 formal acceptance of the surrender of the license, Respondent will no longer be subject to the
19 terms and conditions of probation.

20 Upon acceptance of the surrender, Respondent shall relinquish her pocket
21 license to the Board within 10 days of notification by the Board that the surrender is accepted.
22 Respondent may not reapply for any license from the Board for three years from the effective
23 date of the surrender. Respondent shall meet all requirements applicable to the license sought
24 as of the date the application for that license is submitted to the Board.

25 **14. Notification of Employment/Mailing Address Change.** Respondent
26 shall notify the Board in writing within 10 days of any change of employment. Said
27 notification shall include the reasons for leaving and/or the address of the new employer,
28 supervisor or owner and work schedule if known. Respondent shall notify the Board in

1 writing within 10 days of a change in name, mailing address or phone number.

2 15. **Tolling of Probation.** Respondent shall work at least 40 hours in each
3 calendar month as a pharmacist and at least an average of 80 hours per month in any six
4 consecutive months following the 12-month suspension. Failure to do so will be a violation of
5 probation. If Respondent has not complied with this condition during the probationary term,
6 and Respondent has presented sufficient documentation of her good faith efforts to comply
7 with this condition, and if no other conditions have been violated, the Board, in its discretion,
8 may grant an extension of Respondent's probation period up to one year without further
9 hearing in order to comply with this condition.

10 16. **Violation of Probation.** If Respondent violates probation in any
11 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke
12 probation and carry out the disciplinary order which was stayed. If a petition to revoke
13 probation or an accusation is filed against Respondent during probation, the Board shall have
14 continuing jurisdiction and the period of probation shall be extended, until the petition to
15 revoke probation or accusation is heard and decided.

16 If Respondent has not complied with any term or condition of probation, the
17 Board shall have continuing jurisdiction over Respondent, and probation shall automatically
18 be extended until all terms and conditions have been satisfied or the Board has taken other
19 action as deemed appropriate to treat the failure to comply as a violation of probation, to
20 terminate probation, and to impose the penalty which was stayed.

21 17. **Completion of Probation.** Upon successful completion of probation,
22 Respondent's license will be fully restored.

23 18. **Rehabilitation Program - Pharmacists Recovery Program (PRP).**
24 Within 30 days of the effective date of this decision, Respondent shall contact the Pharmacists
25 Recovery Program for evaluation and shall successfully participate in and complete the
26 treatment contract and any subsequent addendums as recommended and provided by the PRP
27 and as approved by the Board. The costs for PRP participation shall be borne by the
28 Respondent.

1 If Respondent is currently enrolled in the PRP, said participation is now
2 mandatory and is no longer considered a self-referral under Business and Professions Code
3 section 4363, as of the effective date of this decision. Respondent shall successfully
4 participate in and complete her current contract and any subsequent addendums with the PRP.
5 Probation shall be automatically extended until Respondent successfully completes her
6 treatment contract. If Respondent is terminated from the program, she shall be automatically
7 suspended upon notice by the Board. Respondent may not resume the practice of pharmacy
8 until notified by the Board in writing. The Board shall retain jurisdiction to institute action to
9 terminate probation for any violation of this term.

10 **19. Random Drug Screening.** Respondent, at her own expense, shall
11 participate in random testing, including but not limited to biological fluid testing (urine,
12 blood), breathalyzer, hair follicle testing, or a drug screening program approved by the Board.
13 The length of time shall be for the entire probation period and the frequency of testing will be
14 determined by the Board. At all times Respondent shall fully cooperate with the Board, and
15 shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics,
16 hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as
17 directed shall constitute a violation of probation. Any confirmed positive drug test shall result
18 in the immediate suspension of practice by Respondent. Respondent may not resume the
19 practice of pharmacy until notified by the Board in writing.

20 **20. Abstain from Drugs and Alcohol Use.** Respondent shall completely
21 abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their
22 associated paraphernalia except when the drugs are lawfully prescribed by a licensed
23 practitioner as part of a documented medical treatment. Upon request of the Board,
24 Respondent shall provide documentation from the licensed practitioner that the prescription
25 was legitimately issued and is a necessary part of the treatment of the Respondent.

26 **21. Ethics Course.** Within 180 calendar days of the effective date of this
27 decision, Respondent shall enroll in a course in Ethics at Respondent's expense, approved in
28 advance by the Board or its designee. Failure to initiate the course during the first year of

1 probation, and complete it within the second year of probation, is a violation of probation.

2 Respondent shall submit a certificate of completion to the Board or its designee
3 within five days after completing the course.

4 ACCEPTANCE

5 I have carefully read the above Stipulated Settlement and Disciplinary Order
6 and have fully discussed it with my attorney, Samuel Spital. I understand the stipulation and
7 the effect it will have on my Pharmacist License. I enter into this Stipulated Settlement and
8 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
9 Decision and Order of the Board.

10 DATED: 4/3/08

11 
12 LISA ANNE PANAB A.K.A. LISA ANNE KESLER
13 Respondent

13 I have read and fully discussed with Respondent Lisa Anne Panab a.k.a. Lisa
14 Anne Kesler the terms and conditions and other matters contained in the above Stipulated
15 Settlement and Disciplinary Order. I approve its form and content.

16 DATED: 4/4/08

17 
18 SAMUEL SPITAL
19 Attorney for Respondent

20 ENDORSEMENT

21 The foregoing Stipulated Settlement and Disciplinary Order is hereby
22 respectfully submitted for consideration by the Board.

23 DATED: 4/7/08

24 EDMUND G. BROWN JR., Attorney General
25 of the State of California

26 GLORIA A. BARRIOS
27 Supervising Deputy Attorney General

28 LINDAL SUN
29 Deputy Attorney General

Attorneys for Complainant

Exhibit A
First Amended Accusation No. 3050

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 LINDA L. SUN, State Bar No. 207108
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-6375
6 Facsimile: (213) 897-2804

7 Attorneys for Complainant

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

11 In the Matter of the First Amended Accusation
Against:

Case No. 3050

12 LISA ANNE PANAB
13 a.k.a. LISA ANNE KESLER
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14 a.k.a. LISA AANNE KESLER
15 13061 Rosedale Highway #182
Bakersfield, CA 93312

FIRST AMENDED ACCUSATION

16 Pharmacist License No. RPH 47276

17 Respondent.

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20 Complainant alleges:

21 **PARTIES**

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

25 2. On or about August 4, 1994, the Board issued Pharmacist License No.
26 RPH 47276 to Lisa Anne Panab a.k.a. Lisa Anne Kesler a.k.a. Lisa Ann Kesler a.k.a. Lisa Aanne
27 Kesler (Respondent). The Pharmacist License was in full force and effect at all times relevant to
28 the charges brought herein and has expired on September 30, 2009.

JURISDICTION

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

4. Section 118, subdivision (b), provides that the suspension / expiration / surrender / 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.

5. Section 4059, subdivision (a) provides in pertinent part: "A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian. . . ."

6. Section 4060 provides in pertinent part:
"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian. . . ."

7. Section 4300, subdivision (a), states: "Every license issued may be suspended or revoked."

8. Section 4301 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:

.....
"(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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1 “(h) The administering to oneself, of any controlled substance, or the use of any
2 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or
3 injurious to oneself, to a person holding a license under this chapter, or to any other person or to
4 the public, or to the extent that the use impairs the ability of the person to conduct with safety to
5 the public the practice authorized by the license.

6

7 “(j) The violation of any of the statutes of this state, of any other state, or of the
8 United States regulating controlled substances and dangerous drugs.

9

10 “(l) The conviction of a crime substantially related to the qualifications, functions,
11 and duties of a licensee under this chapter. . . .

12

13 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or
14 abetting the violation of or conspiring to violate any provision or term of this chapter or of the
15 applicable federal and state laws and regulations governing pharmacy, including regulations
16 established by the board or by any other state or federal regulatory agency.”

17 9. Section 490 states:

18 “A board may suspend or revoke a license on the ground that the licensee has
19 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or
20 duties of the business or profession for which the license was issued. A conviction within the
21 meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo
22 contendere. Any action which a board is permitted to take following the establishment of a
23 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
24 been affirmed on appeal, or when an order granting probation is made suspending the imposition
25 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
26 Penal Code.”

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1 10. California Code of Regulations, title 16, section 1770, states:
2 "For the purpose of denial, suspension, or revocation of a personal or facility
3 license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions
4 Code, a crime or act shall be considered substantially related to the qualifications, functions or
5 duties of a licensee or registrant if to a substantial degree it evidences present or potential
6 unfitness of a licensee or registrant to perform the functions authorized by his license or
7 registration in a manner consistent with the public health, safety, or welfare."

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

12 **CONTROLLED SUBSTANCES/ DANGEROUS DRUGS**

13 12. Codeine, generic name for codeine phosphate, is a Schedule II controlled
14 substance as defined in Health and Safety Code section 11055 (b)(1)(h); and categorized as a
15 dangerous drug pursuant to Business and Professions Code section 4022.

16 13. Hydromorphone, an opium derivative, is a Schedule II controlled
17 substance as designated by Health and Safety Code section 11055(b)(1)(k) and is categorized as a
18 dangerous drug pursuant to Business and Professions Code section 4022.

19 14. Morphine is a Schedule II controlled substance pursuant to Health and
20 Safety Code section 11055(b)(1)(M) and a dangerous drug pursuant to Business and Professions
21 Code section 4022.

22 15. Adipex, brand name for Phentermine, a stimulant, is classified as a
23 Schedule IV controlled substance pursuant to the Health and Safety Code section 11057(f)(4),
24 and is a dangerous drug within the meaning of Business and Professions Code section 4022.

25 16. Vicodin/Norco, trade name for a combination drug containing
26 hydrocodone bitartrate (opioid analgesic) and acetaminophen, is a Schedule III controlled
27 substance as defined in Health and Safety Code section 11056(e)(7) and is categorized as a
28 dangerous drug according to Business and Professions Code section 4022.

1 hydromorphone.

2 **SECOND CAUSE FOR DISCIPLINE**

3 **(Dangerous Use of Controlled Substance)**

4 23. Respondent is subject to disciplinary action under Code section 4301,
5 subdivision (h), in that Respondent used dangerous drug/controlled substance to the extent or in a
6 manner as to be dangerous or injurious to herself, or to any other person or to the public. The
7 circumstances are as described in paragraph 22 above, which is incorporated herein by reference.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Commission of Acts Involving
10 Moral Turpitude, Dishonesty, Fraud, Deceit)**

11 24. Respondent is subject to disciplinary action under Code section 4301,
12 subdivision (f), in that Respondent committed acts involving moral turpitude, dishonesty, fraud,
13 deceit, or corruption, as follows:

14 a. On or about April 21, 2007, while working as a pharmacist at Rite Aid
15 Pharmacy, Tehachapi (42591), Respondent diverted controlled substances and dangerous drugs
16 from the pharmacy for her own use. These drugs included hydrocodone/acetaminophen
17 (Vicodin, Norco), Ibuprofen, Dextroamphetamine, Phentermine, Levoquin, Lidocaine ointment
18 and Locoid (hydrocortisone) ointment.

19 b. On or about April 21, 2007, upon being questioned by police officers
20 about the stolen drugs, Respondent provided the officers with false identity regarding her name,
21 date of birth and home address. Respondent also misrepresented to the officers that she had
22 prescriptions for the tubes of ointment found in her possession.

23 c. On or about June 16, 2004, in Case No. BM654645A, Respondent was
24 convicted on her plea of *nolo contendere* for violating Penal Code section 488 (petty theft), a
25 misdemeanor, in the criminal proceeding entitled *The People of the State of California v. Lisa*
26 *Anne Kesler*, Kern County Superior Court, Metropolitan Justice Building. The Court deferred
27 entry of the judgment.

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PRAYER

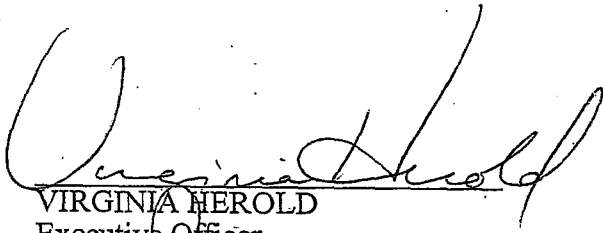
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacist License No. RPH 47276, issued to Lisa Anne Panab a.k.a. Lisa Anne Kesler a.k.a. Lisa Ann Kesler a.k.a. Lisa Aanne Kesler.

2. Ordering Lisa Anne Panab 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: 12/18/07



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

Complainant

LA2006602093
10/12/07 lls