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

12 In the Matter of the Accusation Against:

Case No. 4817

13 **BRIAN EARL CHAMBERS**  
3783 S. Suntree Place  
14 Boise, Idaho 83706

**A C C U S A T I O N**

15 **Pharmacist License No. RPH 44303**

16 Respondent.

17  
18 Virginia Herold ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Accusation solely in her official capacity as the Executive  
21 Officer of the Board of Pharmacy, Department of Consumer Affairs.

22 2. On or about August 2, 1991, the Board of Pharmacy issued Pharmacist License  
23 Number RPH 44303 to Brian Earl Chambers ("Respondent"). The Pharmacist License was in full  
24 force and effect at all times relevant to the charges brought herein and will expire on January 31,  
25 2015, unless renewed.

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1 **JURISDICTION**

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

5 4. Code section 4300 states, in pertinent part, that every license issued may be suspended  
6 or revoked.

7 5. Code section 4300.1 states:

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

13 **STATUTORY PROVISIONS**

14 6. Code section 4301 states, in pertinent part:

15 The board shall take action against any holder of a license who is guilty of unprofessional  
16 conduct. Unprofessional conduct shall include, but is not limited to, any of the following:

17 ...

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

21 ...

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

24 ...

25 "(l) The conviction of a crime substantially related to the qualifications, functions, and duties  
26 of a licensee under this chapter."

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**SECOND CAUSE FOR DISCIPLINE**

**(Conviction of Crime)**

9. Respondent is subject to discipline under Code section 4301, subdivision (l), in that on or about on or about November 12, 2012, in the case of the *State of Idaho v. Brian Earl Chambers* (State of Idaho, in and for the County of Ada, District Court Case No. CR-FE-2012-0010447), Respondent plead guilty to violating Idaho Code section 18-2202(1) (Fraud by Computer), a felony.

10. On or about January 18, 2013, the Board received a license renewal application for Respondent's California Pharmacist License No. RPH 44303. Respondent submitted a type-written letter to the Board, dated February 14, 2013, wherein Respondent admits that he plead guilty to Fraud by Computer for pill count adjustments that he made.

**THIRD CAUSE FOR DISCIPLINE**

**(Dishonest, Fraudulent and/or Deceitful Acts)**

11. Respondent is subject to discipline under Code section 4301, subdivision (f), in that on or after June 1, 2011 through December 30, 2011, Respondent committed dishonest, fraudulent and/or deceitful acts when he diverted controlled substances from his employer and adjusted pill inventory counts in the computer. The facts and circumstances are more fully set forth in the Stipulation and Consent Order between Respondent and the Idaho State Board of Pharmacy (Case No. BOP 12-016). A true and correct copy of the Stipulation and Consent Order (Case No. BOP 12-016) is attached as Exhibit A and incorporated herein.

**FOURTH CAUSE FOR DISCIPLINE**

**(Violating Statutes Governing Controlled Substances)**

12. Respondent is subject to discipline under Code section 4301, subdivision (j), in that on or after June 1, 2011 through December 30, 2011, Respondent violated Idaho statutes regulating controlled substances, as more fully set forth above in paragraphs 8 through 11 and their subparts.

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**FIFTH CAUSE FOR DISCIPLINE**

1 **(Violating Laws and Regulations Governing Pharmacy)**

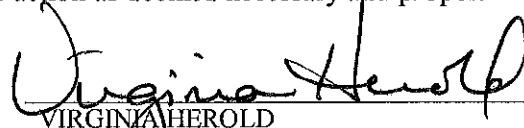
2 13. Respondent is subject to discipline under Code section 4301, subdivision (o), in that  
3 on or about November 12, 2012, and May 31, 2012, Respondent violated the laws and regulations  
4 governing pharmacy, as set forth above in paragraphs 8 through 12 and their subparts.

5 **PRAYER**

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

- 8 1. Revoking or suspending Pharmacist License Number RPH 44303, issued to Brian Earl  
9 Chambers
- 10 2. Ordering Brian Earl Chambers to pay the Board of Pharmacy the reasonable costs of  
11 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
12 125.3;
- 13 3. Taking such other and further action as deemed necessary and proper.

14 DATED: 10/21/13



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

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**Exhibit A**  
**Stipulation and Consent Order (Case No. BOP 12-016)**

BEFORE THE BOARD OF PHARMACY

STATE OF IDAHO

In the Matter of the License and	)	
Registration of:	)	Case No. BOP 12-016
	)	
BRIAN CHAMBERS, R.Ph.	)	<b>STIPULATION AND</b>
Pharmacist License No. P5054	)	<b>CONSENT ORDER</b>
CS Registration No. CS6130	)	
	)	
<u>Respondent.</u>	)	

WHEREAS, information has been received by the Idaho State Board of Pharmacy ("Board") that constitutes sufficient grounds for the initiation of an administrative action against Brian Chambers, R.Ph. ("Respondent"); and

WHEREAS, the parties wish to expeditiously settle the matter in lieu of proceeding to an administrative hearing before the Board; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

**A. JURISDICTION OF THE BOARD**

A.1. The Board regulates the practice of pharmacy in the State of Idaho in accordance with title 54, chapter 17, Idaho Code. The Board is further empowered by title 37, chapter 27, Idaho Code, to administer the regulating provisions of the Uniform Controlled Substances Act in the State of Idaho.

A.2. Respondent is a licensee of the Board and holds Pharmacist License No. P5054 and Controlled Substance Registration No. CS6130. Respondent's license and registration are subject to the provisions of title 54, chapter 17, Idaho Code, the provisions of title 37, chapter 27, Idaho Code, and the Board's rules promulgated at IDAPA 27.01.01, *et seq.*

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## B. STIPULATED FACTS

B.1. On or about December 20, 2011, Board Staff received information indicating that Respondent may have been abusing controlled substances. At the time, Respondent was employed as a pharmacist at Sav-On Pharmacy located at 909 East ParkCenter Blvd. in Boise, Idaho ("Sav-On").

B.2. On or about December 20, 2011, Board Staff reviewed Respondent's Idaho prescription history and found Respondent did not have any valid Idaho prescriptions for controlled substances.

B.3. On or about December 21, 2011, Respondent submitted to a substance abuse evaluation at Pine Grove Behavior Health & Addiction Services located in Hattiesburg, Mississippi ("Pine Grove Facility").

B.4. On or about January 4, 2012, upon request from Board Staff, Sav-On completed an inventory of all its controlled substances. The inventory revealed discrepancies with regard to hydrocodone, amphetamine, and phentermine.

B.5. On or about January 4, 2012, Board Staff was informed that Respondent admitted to having diverted controlled substances from his employer(s).

B.6. On March 26, 2012, Respondent entered the Pharmacist Recovery Network ("PRN"), which is a monitoring program administered by Southworth Associates. Respondent entered PRN by signing a contract with Southworth Associates.

B.7. The allegations above, if proven, violate the laws and rules governing the practice of pharmacy in the State of Idaho and would be grounds for discipline. Specifically, the allegations, if proven, would violate:

a. Idaho Code § 37-2722(a) (except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in schedule II may be dispensed without the written prescription of a practitioner):

b. Idaho Code § 37-2722(c) (except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included



in schedule III or IV, shall not be dispensed without a written or oral prescription of a practitioner);

c. Idaho Code § 54-1726(a) (a pharmacist shall not engage in unprofessional conduct as defined by the rules of the Board);

d. Board Rule 184.08 (unprofessional conduct includes supplying or diverting drugs, biological, and other medicines, substances, or devices, legally sold in pharmacies, that allows unqualified person to circumvent laws pertaining to the legal sale of such articles);

e. Board Rule 184.07 (unprofessional conduct includes being addicted or habituated to the use of alcohol or controlled substances); and

f. Idaho Code § 54-1726(f) (violation of any of the provisions of this chapter, chapter 27, title 37, Idaho Code, or rules adopted by the Board).

B.8. Respondent, in lieu of proceeding with a formal disciplinary action, hereby agrees that the Board may enter a final order against her pharmacist license and controlled substance registration as set forth in Section C below.

### **C. STIPULATED PENALTIES**

C.1. It is agreed that Respondent's pharmacist license and controlled substance registration shall be conditioned upon Respondent's compliance with the following terms:

a. Respondent shall comply with all the terms and conditions of his PRN contract with Southworth Associates, dated March 26, 2012, specifically to include all recommendations set forth in any reports or evaluations produced by the Pine Grove Facility; and

b. Respondent shall comply with all state, federal and local laws, rules and regulations governing the practice of pharmacy in the State of Idaho.

C.2. Respondent shall inform the Board in writing of any change of place of practice or place of business within ten (10) days of such change.

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C.3. Respondent shall fully cooperate with the Board and its agents, and shall make all relevant files, records, correspondence or other documents available immediately upon the demand of any member of the Board or its agents.

C.4. Provided Respondent has complied with all the terms of this Stipulation, Respondent's license and registration shall be reinstated to a non-conditioned status without further proceedings upon the first occurrence of one of the following:

- a. Respondent's successful completion of the PRN Program; or
- b. Upon five (5) years from the effective date of this Stipulation and Consent Order, so long as the PRN Program provides a written statement to the Board stating that the Respondent has been compliant, and is in good standing, with his PRN program.

C.5. All costs associated with Respondent's compliance with the terms of this Stipulation are the sole responsibility of Respondent.

C.6. If Respondent fails to comply with any of the terms and conditions set forth in this Stipulation, Respondent's pharmacist license and controlled substance registration may be subject to further discipline, up to and including suspension or revocation. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation. Any action taken by the Board to enforce compliance with this Stipulation shall be in accordance with Section E. The Board may also require Respondent to pay any additional costs and/or attorney fees incurred by the Board to enforce this Stipulation.

#### **D. ACKNOWLEDGMENT AND WAIVER OF RIGHT TO A HEARING**

I, Brian Chambers, by affixing my signature hereto, acknowledge that:

D.1 I have read and admit to the foregoing as stated above in section B. I understand that these allegations constitute cause for disciplinary terms upon my license to practice pharmacy and my controlled substance registration in the state of Idaho. I agree that the Board has jurisdiction to proceed in this matter with my consent as indicated by my signature hereto.

D.2. I understand that I have the right to a full and complete hearing; the right to

confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to so testify myself; the right to reconsideration; the right to appeal; and all rights accorded by the Idaho Administrative Procedure Act and the laws and rules governing the practice of pharmacy in the state of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this Stipulation as a resolution of the allegations contained herein.

D.3. I understand that in signing this Stipulation I am enabling the Board to impose disciplinary action upon my pharmacist license and controlled substance registration as set forth in Section C without further process.

D.4. I understand that the Board shall have the right to make full disclosure of this Stipulation and subsequent Order to any state, agency or individual requesting information subject to any applicable provisions of the Idaho Public Records Act, title 9, chapter 3, Idaho Code.

D.5. I understand that this Stipulation and Consent Order is the resolution of a contested case and is a **public record**.

D.6. I understand and agree that this Stipulation contains the entire agreement between the parties, and I am not relying on any other agreement or representation of any kind, verbal or otherwise.

D.7. I have read the above Stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by agreeing to the terms of this Stipulation I am waiving certain rights accorded to me under Idaho law.

#### **E. VIOLATION OF STIPULATION AND CONSENT ORDER**

E.1. The Board has authority to enforce compliance with the terms and conditions of this Stipulation. By signing this Stipulation, Respondent waives his ability to challenge the Board's authority to enforce compliance on appeal to a district court. If there is reason to believe Respondent has violated any of the terms or conditions of this Stipulation, the Executive Director of the Board shall file a Motion to Enforce, or other administrative complaint, setting forth the allegations of non-compliance. The Motion to Enforce, or other administrative complaint, will

include notice to Respondent, and his attorney, if applicable, that Respondent has the opportunity to request a hearing regarding the allegations of non-compliance. If Respondent fails to request a hearing pursuant to the Motion to Enforce, or other administrative complaint, any allegations of non-compliance will be deemed admitted.

E.2. If Respondent is found to have violated the terms and conditions of this Stipulation and Consent Order, Respondent's pharmacist license and controlled substance registration may be suspended or revoked as set forth in Section C.6 above.

E.3. If Respondent is found to have not violated the terms and conditions of this Stipulation, Respondent's pharmacist license and controlled substance registration shall remain in the same status as they were at the time of the Motion to Enforce, or other administrative complaint, was filed.

E.4. Any additional costs and attorney fees incurred by the Board in any enforcement action shall be the responsibility of Respondent.

#### **F. PRESENTATION OF STIPULATION TO BOARD**

F.1. The parties agree that this Stipulation shall be presented to the Board with a recommendation for approval from the Executive Director for the Board and the Deputy Attorney General responsible for prosecution before the Board at the next regularly scheduled meeting of the Board.

F.2. The Board may accept, modify with Respondent's approval, or reject this Stipulation. If the Board rejects the Stipulation, an Administrative Complaint may be filed with the Board. Respondent waives any right Respondent may have to challenge the Board's impartiality to hear the allegations in the Administrative Complaint based on the fact that the Board has considered and rejected this Stipulation. Respondent does not waive any other rights regarding challenges to Board members.

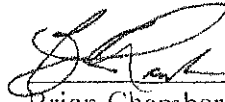
F.3. If the Board rejects this Stipulation then, except for Respondent's waiver set forth in Paragraph D.2., this Stipulation shall be regarded as null and void, and admissions in this Stipulation and negotiations preceding the signing of this Stipulation will not be admissible at

any subsequent disciplinary hearing.

F.4. Except for Paragraph D.2., which becomes effective when Respondent signs this Stipulation, this Stipulation shall not become effective until it has been approved by a majority of the Board and a Board member signs the attached Order.

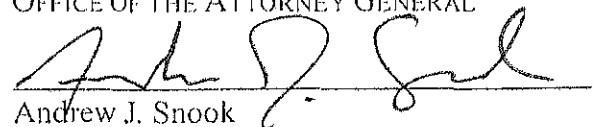
I have read the above Stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I am waiving certain rights accorded to me under Idaho law. I understand that the Board may approve this Stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this Stipulation according to the aforementioned terms, and I hereby agree to the above Stipulation for settlement. I understand that if the Board approves this Stipulation subject to changes, and the changes are acceptable to me, the Stipulation will take effect and an order modifying the terms of the Stipulation will be issued. If the changes are unacceptable to me or the Board rejects this Stipulation, it will be of no effect.

DATED this 25<sup>th</sup> day of May, 2012.

  
\_\_\_\_\_  
Brian Chambers, R.Ph.  
Respondent

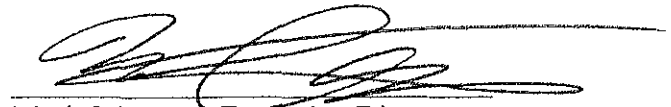
I recommend that the Board enter an Order based upon this Stipulation.

DATED this 31 day of May, 2012.

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL  
  
\_\_\_\_\_  
Andrew J. Snook  
Deputy Attorney General

I recommend that the Board enter an Order based upon this Stipulation.

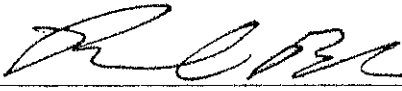
DATED this 26 day of May, 2012.

  
\_\_\_\_\_  
Mark Johnston, Executive Director  
Idaho State Board of Pharmacy

**ORDER**

Pursuant to Idaho Code § 54-1728 and § 37-2718, the foregoing is adopted as the decision of the Idaho State Board of Pharmacy in this matter and shall be effective on the 31 day of May, 2012. **IT IS SO ORDERED.**

IDAHO STATE BOARD  
OF PHARMACY

By   
Richard de Blaquiére, Pharm D  
Board Chair

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**CERTIFICATE OF MAILING**

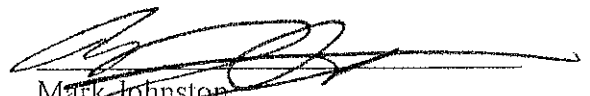
I HEREBY CERTIFY that on this 31 day of May, 2012, I caused to be served a true and correct copy of the foregoing STIPULATION AND CONSENT ORDER addressed to:

Brian Chambers, R.Ph.  
3783 S. Suntree Pl.  
Boise, ID 83706

- U.S. Mail
- Hand Delivery
- Certified Mail, Return Receipt Requested
- Overnight Mail
- Facsimile:
- Statehouse Mail

Andrew J. Snook  
Deputy Attorney General  
P.O. Box 83720  
Boise, ID 83720-0010

- U.S. Mail
- Hand Delivery
- Certified Mail, Return Receipt Requested
- Overnight Mail
- Facsimile:
- Statehouse Mail

  
Mark Johnston  
Executive Director