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

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

Case No. 5149

13 **JOHNNY THOMAS LANG**
5504 Ginger Dr.
14 Bakersfield, CA 93309
Pharmacist License No. RPH 50571

PETITION TO REVOKE PROBATION

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold (Complainant) brings this Petition to Revoke Probation solely in her
20 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
21 Affairs (Board).

22 2. On or about September 29, 1998, the Board issued Pharmacist License No. RPH
23 50571 to Johnny Thomas Lang (Respondent). The Pharmacist License was in effect at all times
24 relevant to the charges brought herein and will expire on November 30, 2014, unless renewed.

25 3. In a disciplinary action entitled "In the Matter of the Second Amended Accusation
26 Against Johnny Thomas Lang," Case No. 3242, the Board and Respondent entered into a
27 Stipulated Revocation, which was adopted by the Department of Consumer Affairs and became
28 effective on April 21, 2010.

1 recommended and provided by the PRP and as approved by the Board or its designee. The costs
2 for PRP participation shall be borne by petitioner.

3 If petitioner is currently enrolled in the PRP, his participation shall become mandatory and
4 as of the effective date of this decision is no longer considered a self-referral under Business and
5 Professions Code section 4362(c)(2). Petitioner shall successfully participate in and complete his
6 current contract and any subsequent addendums with the PRP.

7 Failure to timely contact or enroll in the PRP, or successfully participate in and complete
8 the treatment contract and/or any addendums, shall be considered a violation of probation.

9 Probation shall be automatically extended until petitioner successfully completes the PRP.
10 Any person terminated from the PRP program shall be automatically suspended by the Board.
11 Petitioner may not resume the practice of pharmacy following such suspension until notified by
12 the Board in writing.

13 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
14 licensed practitioner as part of a documented medical treatment shall result in the automatic
15 suspension of practice by Petitioner and shall be considered a violation of probation. Petitioner
16 may not resume the practice of pharmacy until notified by the Board in writing.

17 During suspension, petitioner shall not enter any pharmacy area or any portion of the
18 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
19 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices
20 or controlled substances are maintained. Petitioner shall not practice pharmacy nor do any act
21 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
22 consultation; nor shall petitioner manage, administer, or be a consultant to any licensee of the
23 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
24 and controlled substances. Petitioner shall not resume practice until notified by the Board.

25 During suspension, petitioner shall not engage in any activity that requires the professional
26 judgment of a pharmacist. Petitioner shall not direct or control any aspect of the practice of
27 pharmacy. Petitioner shall not perform the duties of a pharmacy technician or a designated
28 representative for any entity licensed by the Board.

Failure to comply with this suspension shall be considered a violation of probation.

Petitioner shall pay administrative fees as invoiced by the PRP or its designee. Fees not
timely paid to the PRP shall constitute a violation for probation. The Board will collect unpaid
administrative fees as part of the annual probation monitoring costs if not submitted to the PRP

11. Respondent's probation is subject to revocation because he failed to successfully
participate in and complete the treatment contract and/or any addendums of PRP as stated in
Probation Condition 15, referenced above. On or about December 3, 2013, Respondent was
terminated from the PRP as a public risk due to a positive drug screen.

SECOND CAUSE TO REVOKE PROBATION

(Positive Random Drug Screening)

12. At all times after the effective date of Respondent's probation, Condition 16 stated:

Petitioner, at his own expense, shall participate in random testing, including but not limited
to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug screening

1 program as directed by the Board or its designee. Petitioner may be required to participate in
2 testing for the entire probation period and the frequency of testing will be determined by the
3 Board or its designee. At all times, Petitioner shall fully cooperate with the Board or its designee,
4 and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics,
5 hypnotics, dangerous drugs or other controlled substances as the Board or its designee may direct
6 probation.

7 Failure to timely submit to testing as directed shall be considered a violation of of
8 probation.

9 Upon request of the Board or its designee, petitioner shall provide documentation from a
10 licensed practitioner that the prescription for a detected drug was legitimately issued and is a
11 necessary part of the treatment of petitioner.

12 Failure to timely provide such documentation shall be considered a violation of probation

13 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
14 licensed practitioner as part of a documented medical treatment shall be considered a violation of
15 probation and shall result in the automatic suspension of practice of pharmacy by petitioner.
16 Petitioner may not resume the practice of pharmacy until notified by the Board in writing.

17 During suspension, petitioner shall not enter any pharmacy area or any portion of the
18 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
19 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices
20 or controlled substances are maintained. Petitioner shall not practice pharmacy nor do any act
21 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
22 consultation; nor shall petitioner manage, administer, or be a consultant to any licensee of the
23 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
24 and controlled substances. Petitioner shall not resume practice until notified by the Board.

25 During suspension petitioner shall not engage in any activity that requires the professional
26 judgment of a pharmacist. Petitioner shall not direct or control any aspect of the practice of
27 pharmacy. Petitioner shall not perform the duties of a pharmacy technician or a designated
28 representative for any entity licensed by the Board.

Subject to the above restrictions, petitioner may continue to own or hold an interest in any
licensed premises in which he or she holds an interest at the time this decision becomes effective
unless otherwise specified in this order.

Failure to comply with the suspension shall be considered a violation of probation.

13. Respondent's probation is subject to revocation because he failed to comply with
Probation Condition 16 when he tested positive on a drug screen. On or about November 8,
2013, Respondent tested positive for Hydrocodone.

THIRD CAUSE TO REVOKE PROBATION

(Failure to Abstain from Drugs and Alcohol Use)

14. At all times after the effective date of Respondent's probation, Condition 17 stated:

Petitioner shall completely abstain from the possession or use of alcohol, controlled
substances, dangerous drugs and their associated paraphernalia except when the drugs are
lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon

1 request of the Board or its designee, petitioner shall provide documentation from the licensed
2 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the
3 treatment of Petitioner. Failure to timely provide such documentation shall be considered a
4 violation of probation. Petitioner shall ensure that he or she is not in the same physical location as
5 individuals who are using illicit substances even if petitioner is not personally ingesting the
6 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
7 not supported by the documentation timely provided, and/or any physical proximity to persons
8 using illicit substances, shall be considered a violation of probation.

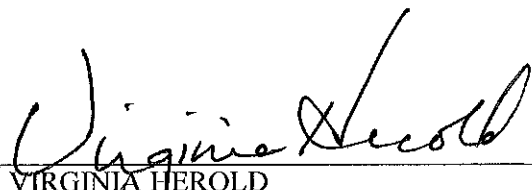
9
10 15. Respondent's probation is subject to revocation because he failed to abstain from
11 drugs in violation of Probation Condition 17, referenced above. On or about November 8, 2013,
12 Respondent tested positive for Hydrocodone.

13 **PRAYER**

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

- 16 1. Revoking the probation that was granted by the Board in Case No.: Case No. 5149
17 (OAH Case No. 2013070348) and imposing the disciplinary order that was stayed thereby
18 revoking Pharmacist License No. RPH 50571 issued to Johnny Thomas Lang;
19 2. Revoking or suspending Pharmacist License No. RPH 50571, issued to Johnny
20 Thomas Lang;
21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: 9/11/14


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

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Exhibit A

Decision and Order

Board of Pharmacy Case Nos. 4875 & 3242

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

In the Matter of the Petition for Reinstatement
of:

JOHNNY LANG,

Petitioner.

OAH No. 2013070348

DECISION

This matter was heard before a quorum of the Board of Pharmacy (Board) in Sacramento, California, on July 30, 2013. Karl S. Engeman, Administrative Law Judge, Office of Administrative Hearings, presided at the hearing.

Desiree Kellogg, Deputy Attorney General, appeared pursuant to Government Code section 11522.

Petitioner Johnny Lang (petitioner) appeared and represented himself.

Evidence was received, the record was closed, and the matter was submitted for decision on July 30, 2013.

FACTUAL FINDINGS

1. On September 29, 1998, the Board issued Original Pharmacist License Number RPH 50571 to petitioner.
2. Effective April 21, 2010, petitioner's pharmacy license number RPH 50571 was revoked. The revocation was based on a stipulation in which petitioner admitted the truth of each and every allegation in the Second Amended Accusation filed against him on July 31, 2009. Petitioner's pharmacy license had been automatically suspended by the Board on April 10, 2009, based on the revocation of his Oregon pharmacy license by the Oregon State Board of Pharmacy on February 28, 2008.
3. There were six separate causes for discipline in the Second Amended Accusation that petitioner admitted were true. The first was his theft of multiple controlled substances between July and October of 2008 from at least five pharmacies where he worked

as a pharmacist. The controlled substances included OxyContin, MS Contin, Hydromorphone and Alprazolam. Petitioner took approximately 200 tablets. The second cause for discipline was the unlawful possession of the same controlled substances during the same time period taken from his employing pharmacies and additional quantities of OxyContin purchased on the street. The third cause for discipline was the unlawful self-administration of the controlled substances during the same time period. The fourth cause for discipline alleged that petitioner was under the influence of the controlled substances while working as a pharmacist during the same time period.

4. The fifth cause for discipline was petitioner's conviction of crimes substantially related to the qualifications, functions and duties of a pharmacist. The offenses were a March 12, 2009 conviction for driving with a suspended California driving license, a February 18, 2009 conviction for receiving stolen property and grand theft (the controlled substances thefts identified above), and a November 4, 2008 conviction for driving with a blood alcohol level of .08 percent or more.

5. The sixth cause for discipline were two State of Oregon Board of Pharmacy orders disciplining petitioner's Oregon pharmacy license. The first order dated August 20, 2007, was a consent order placing petitioner on probation for five years for illegally obtaining, possessing and using prescription controlled substances from 2005 to 2007. The second consent order revoked petitioner's Oregon pharmacy license on February 28, 2008, for various violations of probation including working in pharmacies in violation of a condition imposed by the Pharmacy Recovery Network staff and the illegal obtaining, possession and use of prescription controlled substances during the probationary period.

6. Petitioner testified at the reinstatement hearing and responded to questions posed by Deputy Attorney General Kellogg and Board members. Petitioner admitted that the allegations in the Second Amended Accusation were all true. He acknowledged that he had suffered multiple addictions, including alcohol¹, gambling, and sex. He now recognizes that his addictions stemmed from unresolved deep seated childhood issues. Petitioner curbed his addictions beginning on November 4, 2008, when he entered the Twelve Oaks rehabilitation program in Navarre, Florida. He has had no relapses since that date. While petitioner did not abuse any substances following November 4, 2008, he considered himself a "dry drunk" for approximately three years until he began regular participation in Alcoholics Anonymous (A.A.) in December of 2011. He attends A.A. meetings at least three times each week and also participates in a men's support group and a Fresno professional peer group. He has voluntarily submitted to biological fluid testing since 2011. He is randomly tested twice each week for which he pays \$55. All of the tests have been negative. Petitioner considers that his "true" recovery did not begin until his joined A.A. and has worked the twelve steps program with his sponsors' assistance. He prefers A.A. to Narcotics Anonymous, regarding the former as more honest about recovery.

¹ Petitioner later said that he was never an alcoholic, but did engage in binge drinking.

7. Petitioner lives in Long Beach. He is divorced with no children. He has worked since March of 2011 at a Valvoline oil change facility and earns \$9.25 per hour. Petitioner has satisfied the restitution required by his criminal convictions, paying approximately \$12,000 to Rite Aid. He has not been able to pay any of the \$13,000 owed to the Board for the costs of investigation and prosecution of the matter that led to the Board's revocation of his California pharmacy license. He would like to begin paying the Board, but has been making what he describe as "manageable" payments to the federal Internal Revenue Service and Oregon and California tax entities.

8. Petitioner has taken many continuing education courses (verified by certificates attached to his petition) and reads pharmacy related periodicals. He has friends who are pharmacists who he believes would hire him if he is granted a probationary license. Five character reference letters were submitted by petitioner. The writers all supported his petition. One was written by a retired dentist involved in controlled substance rehabilitation work who monitors petitioner's biological fluid testing program. Two pharmacists wrote letters, one of whom was petitioner's preceptor during his pharmacy rotation in 1997 and the other attended pharmacy school with petitioner and has known him for 19 years. The other letters were written by a Licensed Marriage and Family Therapist who met petitioner in a professional support group for recovering professionals and a recovering substance abuser who had his medical license restored and knows petitioner from a peer support group.

LEGAL CONCLUSIONS

1. Business and Professions Code section 4309, subdivision (a) (1)², provides that a person whose license has been revoked may petition the Board for reinstatement after not less three years. The petition must be accompanied by two or more verified recommendations from licensees, and two or more recommendations from citizens, with personal knowledge of the disciplinary penalty imposed and of petitioner's activities since the disciplinary penalty was imposed. (§ 4309, subd. (b).) Petitioner has satisfied these requirements.

2. Petitioner bears the burden of establishing his fitness for reinstatement. (Evid. Code, § 500.) In a proceeding to restore a revoked or surrendered license, the burden rests on the petitioner to prove that he has rehabilitated himself and that he is entitled to have his license restored. (*Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398.) An individual seeking reinstatement must present strong proof of rehabilitation, which must be sufficient to overcome the former adverse determination. The standard of

² All references are to the Business and Professions Code unless otherwise indicated.

proof is clear and convincing evidence. (*Houseman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308, 215.)

3. In determining whether to reinstate a license, the Board “shall give consideration to evidence of rehabilitation. However, public protection shall take priority over rehabilitation and, where evidence of rehabilitation and public protection are in conflict, public protection shall take precedence.” (§ 4313.)

4. Section 4309, subdivision (d), sets forth the following factors for consideration when the Board reviews a petition for reinstatement:

- (1) All the activities of the petitioner since the disciplinary action was taken.
- (2) The offense for which the petitioner was disciplined.
- (3) The petitioner’s activities during the time the license was in good standing.
- (4) The petitioner’s documented rehabilitative efforts.
- (5) The petitioner’s general reputation for truth and professional ability.

5. These factors have been considered. Although petitioner’s conduct was serious and directly related to his fitness to be a pharmacist, his commitment to sobriety and five years without a relapse make him a suitable candidate for reinstatement on probation. He has accepted responsibility for his past conduct. He has structured his life in a way to avoid recurrence of his past problems. He appears genuine and sincere in his rehabilitative efforts. He conveyed a clear plan to resist future temptations. The restrictions imposed will protect the public by allowing the Board to monitor petitioner’s activities over a significant period of time to ensure that he is recovered and able to practice with safety to the public.

ORDER

The Petition for Reinstatement is granted. However, petitioner’s pharmacy license shall be immediately revoked, with the revocation stayed for three (3) years upon the following terms and conditions:

1. Obey All Laws

Petitioner shall obey all state and federal laws and regulations. Petitioner shall report any of the following occurrences to the Board, in writing, within seventy-two (72) hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws;
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment;
- a conviction of any crime;
- any discipline, citation, or other administrative action filed by any state or federal agency which involves Petitioner's pharmacist license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance. Failure to timely report such occurrence shall be considered a violation of probation.

2. Report to the Board

Petitioner shall report to the Board quarterly, on a schedule as directed by the Board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, petitioner shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the Board.

3. Interview with the Board

Upon receipt of reasonable prior notice, petitioner shall appear in person for interviews with the Board or its designee, at such intervals and locations as are determined by the Board or its designee. Failure to appear for any scheduled interview without prior notification to Board staff, or failure to appear for two (2) or more scheduled interviews with the Board or its designee during the period of probation, shall be considered a violation of probation.

4. Cooperate with Board Staff

Petitioner shall cooperate with the Board's inspection program and with the Board's monitoring and investigation of petitioner's compliance with the terms and conditions of his or her probation. Failure to cooperate shall be considered a violation of probation.

5. Continuing Education

Petitioner shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board or its designee.

6. Notice to Employers

During the period of probation, petitioner shall notify all present and prospective employers of the decision in case number 2013070348 and the terms, conditions and restrictions imposed on Petitioner by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of Petitioner undertaking any new employment, petitioner shall cause his direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during petitioner's tenure of employment) and owner to report to the Board in writing acknowledging that the listed individual(s) has/have read the decision in case number 2013070348, and terms and conditions imposed thereby. It shall be Petitioner's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

If petitioner works for or is employed by or through a pharmacy employment service, petitioner must notify his direct supervisor, pharmacist-in-charge, and owner at every entity licensed by the Board of the terms and conditions of the decision in case number 2013070348 in advance of petitioner commencing work at each licensed entity. A record of this notification must be provided to the Board upon request.

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of petitioner undertaking any new employment by or through a pharmacy employment service, petitioner shall cause his direct supervisor with the pharmacy employment service to report to the Board in writing acknowledging that he or she has read the decision in case number 2013070348 and the terms and conditions imposed thereby. It shall be petitioner's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

Failure to timely notify present or prospective employer(s) or to cause that/those employer(s) to submit timely acknowledgments to the Board shall be considered a violation of probation.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary, relief or pharmacy management service as a pharmacist or any position for which a pharmacist license is a requirement or criterion for employment, whether petitioner is an employee, independent contractor or volunteer.

7. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as Designated Representative-in-Charge, or Serving as a Consultant

During the period of probation, petitioner shall not supervise any intern pharmacist, be the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the Board nor serve as a consultant unless otherwise specified in this order. Assumption of any such unauthorized supervision responsibilities shall be considered a violation of probation.

8. Reimbursement of Board Costs

As a condition to successful completion of probation, petitioner shall pay to the Board its costs of investigation and prosecution in the amount of \$13,000.00. Petitioner shall make installment payments in accordance with a schedule agreeable to the Board's designee. Full payment must be made before the termination of probation. There shall be no deviation from this schedule absent prior written approval by the Board or its designee.

Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

The filing of bankruptcy by petitioner shall not relieve petitioner of his responsibility to reimburse the Board its costs of investigation and prosecution.

9. Probation Monitoring Costs

Petitioner shall pay any costs associated with probation monitoring as determined by the Board each and every year of probation. Such costs shall be payable to the Board on a schedule as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

10. Status of License

Petitioner shall, at all times while on probation, maintain an active, current license with the Board, including any period during which suspension or probation is tolled. Failure to maintain an active, current license shall be considered a violation of probation.

If Petitioner's license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof due to tolling or otherwise, upon renewal or reapplication petitioner's license shall be subject to all terms and conditions of this probation not previously satisfied.

11. License Surrender While on Probation/Suspension

Following the effective date of this decision and the reinstatement of his license, should petitioner cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, petitioner may tender his license to the Board for surrender. The Board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon

formal acceptance of the surrender of the license, petitioner will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of petitioner's license history with the Board.

Upon acceptance of the surrender, petitioner shall relinquish his pocket and wall license to the Board within ten (10) days of notification by the Board that the surrender is accepted. Petitioner may not reapply for any license from the Board for three (3) years from the effective date of the surrender. Petitioner shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board, including any outstanding costs.

12. Notification of a Change in Name, Residence Address, Mailing Address or Employment

Petitioner shall notify the Board in writing within ten (10) days of any change of employment. Said notification shall include the reasons for leaving, the address of the new employer, the name of the supervisor and owner, and the work schedule if known. Petitioner shall further notify the Board in writing within ten (10) days of a change in name, residence address, mailing address, or phone number.

Failure to timely notify the Board of any change in employer(s), name(s), address (es), or phone number(s) shall be considered a violation of probation.

13. Tolling of Probation

Except during periods of suspension, petitioner shall, at all times while on probation, be employed as a pharmacist in California for a minimum of forty (40) hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. During any such period of tolling of probation, petitioner must nonetheless comply with all terms and conditions of probation.

Should petitioner, regardless of residency, for any reason (including vacation) cease practicing as a pharmacist for a minimum of forty (40) hours per calendar month in California, petitioner must notify the Board in writing within ten (10) days of the cessation of practice, and must further notify the Board in writing within ten (10) days of the resumption of practice. Any failure to provide such notification(s) shall be considered a violation of probation.

It is a violation of probation for petitioner's probation to remain tolled pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding thirty-six (36) months.

"Cessation of practice" means any calendar month during which petitioner is not practicing as a pharmacist for at least forty (40) hours per calendar month, as defined by Business and Professions Code section 4000 et seq. "Resumption of practice" means any

calendar month during which Petitioner is practicing as a pharmacist for at least 40 hours per calendar month as a pharmacist as defined by Business and Professions Code section 4000 et seq.

14. No Ownership of Licensed Premises

Petitioner shall not own, have any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the Board.

Petitioner shall sell or transfer any legal or beneficial interest in any entity licensed by the Board within ninety (90) days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the Board. Failure to timely divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a violation of probation.

15. Pharmacists Recovery Program (PRP)

Within thirty (30) days of the effective date of this decision, petitioner shall contact the Pharmacists Recovery Program (PRP) for evaluation, and he shall immediately thereafter enroll, successfully participate in, and complete the treatment contract and any subsequent addendums as recommended and provided by the PRP and as approved by the Board or its designee. The costs for PRP participation shall be borne by petitioner.

If petitioner is currently enrolled in the PRP, his participation shall become mandatory and as of the effective date of this decision is no longer considered a self-referral under Business and Professions Code section 4362(c)(2). Petitioner shall successfully participate in and complete his current contract and any subsequent addendums with the PRP.

Failure to timely contact or enroll in the PRP, or successfully participate in and complete the treatment contract and/or any addendums, shall be considered a violation of probation.

Probation shall be automatically extended until petitioner successfully completes the PRP. Any person terminated from the PRP program shall be automatically suspended by the Board. Petitioner may not resume the practice of pharmacy following such suspension until notified by the Board in writing.

Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall result in the automatic suspension of practice by Petitioner and shall be considered a violation of probation. Petitioner may not resume the practice of pharmacy until notified by the Board in writing.

During suspension, petitioner shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Petitioner shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall petitioner manage, administer, or be a consultant to any licensee of the Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances. Petitioner shall not resume practice until notified by the Board.

During suspension, petitioner shall not engage in any activity that requires the professional judgment of a pharmacist. Petitioner shall not direct or control any aspect of the practice of pharmacy. Petitioner shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the Board.

Failure to comply with this suspension shall be considered a violation of probation.

Petitioner shall pay administrative fees as invoiced by the PRP or its designee. Fees not timely paid to the PRP shall constitute a violation for probation. The Board will collect unpaid administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

16. Random Drug Screening

Petitioner, at his own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug screening program as directed by the Board or its designee. Petitioner may be required to participate in testing for the entire probation period and the frequency of testing will be determined by the Board or its designee. At all times, Petitioner shall fully cooperate with the Board or its designee, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the Board or its designee may direct.

Failure to timely submit to testing as directed shall be considered a violation of probation.

Upon request of the Board or its designee, petitioner shall provide documentation from a licensed practitioner that the prescription for a detected drug was legitimately issued and is a necessary part of the treatment of petitioner.

Failure to timely provide such documentation shall be considered a violation of probation.

Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall be considered a

violation of probation and shall result in the automatic suspension of practice of pharmacy by petitioner. Petitioner may not resume the practice of pharmacy until notified by the Board in writing.

During suspension, petitioner shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Petitioner shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall petitioner manage, administer, or be a consultant to any licensee of the Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances. Petitioner shall not resume practice until notified by the Board.

During suspension petitioner shall not engage in any activity that requires the professional judgment of a pharmacist. Petitioner shall not direct or control any aspect of the practice of pharmacy. Petitioner shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the Board.

Subject to the above restrictions, petitioner may continue to own or hold an interest in any licensed premises in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

17. Abstain from Drugs and Alcohol Use

Petitioner shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the Board or its designee, petitioner shall provide documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of the treatment of Petitioner. Failure to timely provide such documentation shall be considered a violation of probation. Petitioner shall ensure that he or she is not in the same physical location as individuals who are using illicit substances even if petitioner is not personally ingesting the drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia not supported by the documentation timely provided, and/or any physical proximity to persons using illicit substances, shall be considered a violation of probation.

18. Prescription Coordination and Monitoring of Prescription Use

Within thirty (30) days of the effective date of this decision, petitioner shall submit to the Board, for its prior approval, the name and qualifications of a single physician, nurse practitioner, physician assistant, or psychiatrist of petitioner's choice, who shall be

aware of petitioner's history with the use of alcohol, controlled substances, and dangerous drugs, and who will coordinate and monitor any prescriptions for petitioner for dangerous drugs, controlled substances or mood-altering drugs. The approved practitioner shall be provided with a copy of this decision. A record of this notification must be provided to the Board upon request. Petitioner shall sign a release authorizing the practitioner to communicate with the Board about petitioner's treatment(s). The coordinating physician, nurse practitioner, physician assistant, or psychiatrist shall report to the Board on a quarterly basis for the duration of probation regarding petitioner's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances. The Board may require that the single coordinating physician, nurse practitioner, physician assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine. Should petitioner, for any reason, cease supervision by the approved practitioner, petitioner shall notify the Board immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist of petitioner's choice to the Board or its designee for its prior approval. Failure to timely submit the selected practitioner or replacement practitioner to the Board for approval, or to ensure the required reporting thereby on the quarterly reports, shall be considered a violation of probation.

If at any time an approved practitioner determines that petitioner is unable to practice safely or independently as a pharmacist, the practitioner shall notify the Board immediately by telephone and follow up by written letter within three (3) working days.

Upon notification from the Board or its designee of this determination, petitioner shall be automatically suspended and shall not resume practice until notified by the Board that practice may be resumed.

During suspension, petitioner shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Petitioner shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall petitioner manage, administer, or be a consultant to any licensee of the Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances. Petitioner shall not resume practice until notified by the Board.

During suspension, petitioner shall not engage in any activity that requires the professional judgment of a pharmacist. Petitioner shall not direct or control any aspect of the practice of pharmacy. Petitioner shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the Board.

Failure to comply with this suspension shall be considered a violation of probation

19. Violation of Probation

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

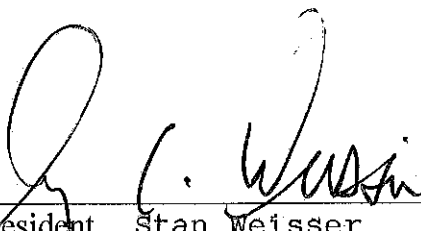
If Petitioner violates probation in any respect, the Board, after giving petitioner notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license.

If a petition to revoke probation or an accusation is filed against petitioner during probation, the Board shall have continuing jurisdiction and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.

20. Completion of Probation

Upon written notice by the Board or its designee indicating successful completion of probation, petitioner's license will be fully restored.

DATED: September 13, 2013



President, Stan Weisser
Board of Pharmacy

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

In the Matter of the Accusation Against:

Case No. 3242

JOHNNY THOMAS LANG
5504 Ginger Drive
Bakersfield, CA 93309

Pharmacist License No. RPH 49557

Respondent.

DECISION AND ORDER

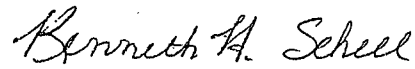
The attached Stipulated Revocation and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on April 21, 2010.

It is so ORDERED on March 22, 2010.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



KENNETH H. SCHELL
Board President

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EDMUND G. BROWN JR.
Attorney General of California
GREGORY SALUTE
Supervising Deputy Attorney General
HEATHER HUA
Deputy Attorney General, State Bar No. 223418
300 So. Spring Street, Suite 1702
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Attorneys for Complainant

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
OAH No. L-2009061227
**STIPULATED REVOCATION OF
LICENSE AND ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties in this proceeding that the following matters are true:

PARTIES

1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy. She brought this action solely in her official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California, and by Heather Hua, Deputy Attorney General.
2. Johnny Thomas Lang (Respondent) is represented in this proceeding by attorney Robert Stewart, whose address is 24 Professional Center Parkway #100, San Rafael, CA 94903.
3. On or about September 29, 1998, the Board of Pharmacy issued Pharmacist License No. RPH 50571 to Johnny Thomas Lang (Respondent). The pharmacist license was in full force

1 and effect at all times relevant to the charges brought in Accusation No. 3242 and will expire on
2 November 30, 2009, unless renewed.

3 **JURISDICTION**

4 4. An Order for Automatic Suspension of Pharmacist License and Accusation No. 3242
5 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is
6 currently pending against Respondent. The Order for Automatic Suspension of Pharmacist
7 License and Accusation and all other statutorily required documents were properly served on
8 Respondent on May 7, 2009. Respondent timely filed his Notice of Defense contesting the
9 Accusation. A First Amended Accusation was properly served on Respondent and his attorney
10 on July 22, 2009. A Second Amended Accusation was properly served on Respondent and his
11 attorney on July 31, 2009. A copy of the Second Amended Accusation No. 3242 is attached as
12 exhibit A and incorporated herein by reference.

13 **ADVISEMENT AND WAIVERS**

14 5. Respondent has carefully read, fully discussed with counsel, and understands the
15 charges and allegations in the Second Amended Accusation No. 3242. Respondent also has
16 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
17 Revocation of License and Order.

18 6. Respondent is fully aware of his legal rights in this matter, including the right to a
19 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
20 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
21 to the issuance of subpoenas to compel the attendance of witnesses and the production of
22 documents; the right to reconsideration and court review of an adverse decision; and all other
23 rights accorded by the California Administrative Procedure Act and other applicable laws.

24 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
25 every right set forth above.

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28 ///

1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in the Second
3 Amended Accusation No. 3242, agrees that cause exists for discipline and hereby revokes his
4 Pharmacist License No. RPH 50571 for the Board's formal acceptance.

5 9. Respondent understands that by signing this stipulation he enables the Board to issue
6 an order accepting the revocation of his Pharmacist License without further process.

7 CONTINGENCY

8 10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
9 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
10 communicate directly with the Board regarding this stipulation and revocation, without notice to
11 or participation by Respondent or his counsel. By signing the stipulation, Respondent
12 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation
13 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
14 as its Decision and Order, the Stipulated Revocation and Disciplinary Order shall be of no force
15 or effect, except for this paragraph, it shall be inadmissible in any legal action between the
16 parties, and the Board shall not be disqualified from further action by having considered this
17 matter.

18 11. The parties understand and agree that facsimile copies of this Stipulated Revocation
19 of License and Order, including facsimile signatures thereto, shall have the same force and effect
20 as the originals.

21 12. In consideration of the foregoing admissions and stipulations, the parties agree that
22 the (Board) may, without further notice or formal proceeding, issue and enter the following
23 Order:

24 ORDER

25 IT IS HEREBY ORDERED that Pharmacist License No. RPH 50571, issued to Respondent
26 Johnny Thomas Lang is revoked and accepted by the Board of Pharmacy.

27 13. The revocation of Respondent's Pharmacist License and the acceptance of the
28 revoked license by the Board shall constitute the imposition of discipline against Respondent.

1 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
2 license history with the Board.

3 14. Respondent may not apply, reapply, or petition for any licensure or registration of the
4 Board for three (3) years from the effective date of the Decision and Order

5 15. Respondent shall cause to be delivered to the Board both his wall license certificate
6 and, if one was issued, pocket license on or before the effective date of the Decision and Order.

7 16. Respondent fully understands and agrees that if he ever files an application for
8 licensure or a petition for reinstatement in the State of California, the Board shall treat it as a
9 petition for reinstatement. Respondent must comply with all the laws, regulations and procedures
10 for reinstatement of a revoked license in effect at the time the petition is filed, and all of the
11 charges and allegations contained in Accusation No. 3242 shall be deemed to be true, correct and
12 admitted by Respondent when the Board determines whether to grant or deny the petition.

13 17. Should Respondent ever apply or reapply for a new license or certification, or petition
14 for reinstatement of a license, by any other health care licensing agency in the State of California,
15 all of the charges and allegations contained in the Second Amended Accusation No. 3242 shall be
16 deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
17 Issues or any other proceeding seeking to deny or restrict licensure.

18 18. Pursuant to Business and Professions Code section 4309(a)(1), the parties further
19 agree that Respondent may reapply for reinstatement no sooner than three (3) years from the
20 effective date of this Decision and Order.

21 19. Respondent shall reimburse the Board for its costs of investigation and enforcement
22 in the amount of **\$13,000 (Thirteen thousand dollars)**. If this sum is not fully paid when
23 Respondent petitions for reinstatement of his license, any license so granted shall be probationary
24 for the duration necessary to complete the reimbursement.

25 ///

26 ///


27 ///

28 ///

ACCEPTANCE

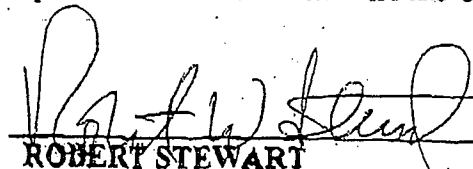
I have carefully read the above Stipulated Revocation of License and Order and have fully discussed it with my attorney, Robert Stewart. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Revocation of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 11-23-09


JOHNNY THOMAS LANG
Respondent

I have read and fully disoussed with Respondent Johnny Thomas Lang the terms and conditions and other matters contained in this Stipulated Revocation of License and Order. I approve its form and content.

DATED: 11-23-09


ROBERT STEWART
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Revocation of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: November 19, 2009

Respectfully Submitted,
EDMUND G. BROWN JR.
Attorney General of California
GREGORY SALUTE
Supervising Deputy Attorney General

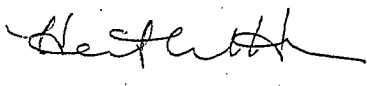

HEATHER HUA
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Second Amended Accusation No. 3242

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GREGORY SALUTE
Supervising Deputy Attorney General
3 HEATHER HUA, State Bar No. 223418
Deputy Attorney General
4 300 South Spring Street, Ste. 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-2574
Facsimile: (213) 897-2804
6

7 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 3242

13 **JOHNNY THOMAS LANG**
5504 Ginger Drive
Bakersfield, CA 93309

SECOND AMENDED ACCUSATION

14 Pharmacist License No. RPH 50571

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

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

25 **JURISDICTION**

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

1 4. Section 118, subdivision (b), provides that the suspension, expiration,
2 surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
3 disciplinary action during the period within the license may be renewed, restored, reissued, or
4 reinstated.

5 5. Section 4011 of the Code states that the Board shall administer and
6 enforce both the Pharmacy Law [Bus. & Prof. Code, Section 4000 et seq.] and the Uniform
7 Controlled Substances Act [Health & Safety Code, Section 11000 et seq.].

8 6. Section 4300, subdivision (a) of the Code provides that every license
9 issued may be suspended or revoked.

10 7. Section 4402, subdivision (a) of the Code provides that any license that is
11 not renewed within three years following its expiration may not be renewed, restored, or
12 reinstated and shall be canceled by operation of law at the end of the three-year period.

13 STATUTORY PROVISIONS

14 8. Section 490 provides, in pertinent part, that a board may suspend or revoke
15 a license on the ground that the licensee has been convicted of a crime substantially related to the
16 qualifications, functions, or duties of the business or profession for which the license was issued.

17 9. Section 4022 states:

18 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
19 self-use in humans or animals, and includes the following: (a) Any drug that bears the legend:
20 "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar
21 import. (b) Any device that bears the statement: "Caution: federal law restricts this device to sale
22 by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in with
23 the designation of the practitioner licensed to use or order use of the device. (c) Any other drug or
24 device that by federal or state law can be lawfully dispensed only on prescription or furnished
25 pursuant to Section 4006."

26 10. Section 4060 states:

27 "No person shall possess any controlled substance, except that furnished to a
28 person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or

1 naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a
2 certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section
3 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to
4 Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause
5 (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall
6 not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
7 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
8 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
9 labeled with the name and address of the supplier or producer. Nothing in this section authorizes
10 a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to
11 order his or her own stock of dangerous drugs and devices.”

12 11. Section 4301 states:

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

17
18 "(f) The commission of any act involving moral turpitude, dishonesty, fraud,
19 deceit, or corruption, whether the act is committed in the course of relations as a licensee or
20 otherwise, and whether the act is a felony or misdemeanor or not.

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

26
27 “(j) The violation of any of the statutes of this state or of the United States
28 regulating controlled substances and dangerous drugs.

1
2 "(l) The conviction of a crime substantially related to the qualifications,
3 functions, and duties of a licensee under this chapter. The record of conviction of a violation of
4 Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating
5 controlled substances or of a violation of the statutes of this state regulating controlled substances
6 or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases,
7 the record of conviction shall be conclusive evidence only of the fact that the conviction
8 occurred. The board may inquire into the circumstances surrounding the commission of the
9 crime, in order to fix the degree of discipline or, in the case of a conviction not involving
10 controlled substances or dangerous drugs, to determine if the conviction is of an offense
11 substantially related to the qualifications, functions, and duties of a licensee under this chapter.
12 A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a
13 conviction within the meaning of this provision. The board may take action when the time for
14 appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order
15 granting probation is made suspending the imposition of sentence, irrespective of a subsequent
16 order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
17 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
18 accusation, information, or indictment.”

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

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

26 12. Section 4327 states:

27 “Any person who, while on duty, sells, dispenses or compounds any drug while
28 under the influence of any dangerous drug or alcoholic beverages shall be guilty of a

1 misdemeanor.”

2 REGULATORY PROVISIONS

3 13. California Code of Regulations, title 16, section 1770, states:

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

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

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

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

14 "(1) Suspending judgment.

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

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

18 "(4) Revoking his or her license.

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

21 15. Health and Safety Code section 11350, subdivision (a), states:

22 "Except as otherwise provided in this division, every person who possesses (1)
23 any controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of
24 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or
25 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section
26 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic
27 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian
28 licensed to practice in this state, shall be punished by imprisonment in the state prison.

1 COST RECOVERY

2 16. Section 125.3 of the Code provides, in pertinent part, that the Board may
3 request the administrative law judge to direct a licentiate found to have committed a violation or
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
5 and enforcement of the case.

6 DANGEROUS DRUGS

7 17. The dangerous drugs stolen by Respondent are listed below:

8 a. Vicodin, Norco - a brand name for Hydrocodone/acetaminophen.

9 It is a Schedule III controlled substance, as defined in Health and Safety Code section
10 11056(e)(4), and is categorized as a "dangerous drug" pursuant to Business and Professions Code
11 section 4022.

12 b. OxyContin - a brand name for Oxycodone. It is a Schedule II
13 controlled substance, as defined in Health and Safety Code section 11055(a)(1)(N), and is
14 categorized as a "dangerous drug" pursuant to Business and Professions Code section 4022.

15 c. MS Contin - a brand name for Morphine. It is a Schedule II
16 controlled substance, as defined in Health and Safety Code section 11055(a)(1)(M), and is
17 categorized as a "dangerous drug" pursuant to Business and Professions Code section 4022.

18 d. Xanax - a brand name for Alprazolam. It is a Schedule IV
19 controlled substance, as defined in Health and Safety Code section 11057(d)(1), and is
20 categorized as a "dangerous drug" pursuant to Business and Professions Code section 4022.

21 e. Hydromorphone - It is a Schedule II controlled substance, as
22 defined in Health and Safety Code section 11055(a)(1)(k), and is categorized as a "dangerous
23 drug" pursuant to Business and Professions Code section 4022.

24 f. Fentanyl - It is a Schedule II controlled substance, as defined in
25 Health and Safety Code section 11055(c)(8), and is categorized as a "dangerous drug" pursuant
26 to Business and Professions Code section 4022.

27 ///

28 ///

1 g. Amphetamine - It is a Schedule II controlled substance, as defined
2 in Health and Safety Code section 11055(d)(1), and is categorized as a "dangerous drug"
3 pursuant to Business and Professions Code section 4022.

4 h. Ritalin - a brand name for Methylphenidate. It is a Schedule II
5 controlled substance, as defined in Health and Safety Code section 11055(d)(6), and is
6 categorized as a "dangerous drug" pursuant to Business and Professions Code section 4022.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Corrupt Acts - Stealing Hydrocodone Containing Medications)**

9 18. Respondent is subject to disciplinary action under Code section 490 and
10 4301, subdivision (f), in conjunction with California Code of Regulations, title 16, section 1770,
11 on the grounds of unprofessional conduct. Respondent engaged in unprofessional conduct in that
12 he conducted acts involving moral turpitude; dishonesty, fraud, deceit, or corruption. The
13 circumstances are as follows:

14 a. Between July of 2008 and the later part of October 2008, all the exact
15 dates which are unknown, Respondent stole multiple controlled substances including, but not
16 limited to OxyContin, MS Contin, Hydromorphone, and Alprazolam, from pharmacies where he
17 worked.

18 b. Pharmacies he stole from included at least Sav-On 6398 (Phy 47642),
19 Longs 270 (Phy 34345), Longs 267 (Phy 34342), Longs 417 (Phy 43377), and Sav-On 6336 (Phy
20 47650).

21 c. The exact number of tablets stolen were unknown, but was estimated to be
22 at least 200 tablets of the various stolen controlled substances.

23 **SECOND CAUSE OF ACTION**

24 **(Unlawful Possession of Controlled Substances)**

25 19. Respondent is subject to disciplinary action under Code sections 490,
26 4060, and 4301, subdivisions (j) & (o), in conjunction with Health and Safety Code section
27 11350, subdivision (a), on the grounds of unprofessional conduct. Respondent engaged in
28 unprofessional conduct in that he violated the statutes of this state regulating controlled

1 substances and dangerous drugs. The circumstances are as follows:

2 a. Between approximately July of 2008, and the later part of October 2008,
3 all the exact dates which were unknown, Respondent stole multiple controlled substances
4 including at least OxyContin, MS Contin, Hydromorphone, and Alprazolam from pharmacies
5 where he worked.

6 b. Per his own admission, Respondent purchased additional unknown
7 quantities of OxyContin from unknown street sources, on dates which were not specifically
8 known, which he also illegally possessed for self-administration.

9 c. Respondent was illegally in possession of the stolen and purchased
10 controlled substances during the period, without prescriptions for those controlled substances.

11 **THIRD CAUSE OF ACTION**

12 **(Unlawful Self-Administration of Controlled Substances)**

13 20. Respondent is subject to disciplinary action under Code sections 490 and
14 4301, subdivision (h), in conjunction with California Code of Regulations, title 16, section 1770,
15 on the grounds of unprofessional conduct. Respondent engaged in unprofessional conduct in that
16 he administered to himself controlled substances. The circumstances are as follows:

17 a. Between approximately July of 2008, and the later part of October 2008,
18 all the exact dates which were unknown, Respondent stole multiple controlled substances
19 including at least OxyContin, MS Contin, Hydromorphone, and Alprazolam from pharmacies
20 where he worked.

21 b. Respondent regularly and illegally self-administered those controlled
22 substances.

23 c. Per his own admission, Respondent purchased additional unknown
24 quantities of OxyContin from unknown street sources, the specific dates which were unknown.

25 d. Respondent also used these purchased controlled substances for illegal
26 self-administration for his addiction.

27 ///

28 ///

1 Case No. BM746614A, Respondent was convicted on a plea of *nolo contendere* for violating
2 Vehicle Code 12500(a) [driving with a suspended license].

3 b. The circumstances surrounding the conviction are that on or about
4 February 6, 2009, California Highway Patrol Officers observed Respondent driving a vehicle in
5 violation of a Vehicle Code Section. An inquiry of Respondent's record revealed that
6 Respondent's driver's license was suspended almost a year ago.

7 c. On or about February 18, 2009, in a criminal proceeding entitled *The*
8 *People of the State of California v. Johnny Thomas Lang* in Kern County, Bakersfield Municipal
9 Court, Case No. BM 743774A, Respondent was convicted on a plea of *nolo contendere* for
10 violating Penal Code sections 496(a) [receiving stolen property] and 487(a) [property grand
11 theft].

12 d. The circumstances surrounding the conviction are that on or about October
13 23, 2008, Respondent willfully and unlawfully sold and received property that belongs to Longs
14 Drugs in violation of Penal Code section 496(a).

15 e. Additionally, on or about October 14, 2008 and October 23, 2008,
16 Respondent willfully and unlawfully take money or personal property of Longs Drugs, of a value
17 exceeding \$400, in violation of Penal Code section 487(a).

18 f. On or about November 4, 2008, in a criminal proceeding entitled *The*
19 *People of the State of California v. Johnny Thomas Lang* in Glenn County Superior Court,
20 Willows Branch, Case No. 08SCR04823, Respondent was convicted on a plea of *nolo*
21 *contendere* for violating Vehicle Code 23152(b) [having 0.08 percent and more, by weight, of
22 alcohol in his blood while driving a vehicle] and for violating Vehicle Code 23222(b)
23 [unlawfully possessing marijuana while driving a vehicle].

24 g. The circumstances surrounding the conviction are that on or about April
25 24, 2008, California Highway Patrol officers observed Respondent driving a vehicle at a high
26 rate of speed. Officers observed Respondent had an odor of an alcoholic beverage, constricted
27 pupils, slow methodical speech and movements, and balance impairment. Respondent admitted
28 to the officers that he had smoked a "small" amount of marijuana four hours ago. A blood

1 sample from Respondent contained 0.13% alcohol level.

2 SIXTH CAUSE FOR DISCIPLINE

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

4 23. Respondent is subject to disciplinary action pursuant to Code section
5 4301, subdivision (f), on the ground of unprofessional conduct, in that he was the subject of two
6 disciplinary orders issued by the State of Oregon Board of Pharmacy, as specified in the
7 following paragraphs:

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

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

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

28 ///

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

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

7 (1) Respondent failed to notify his pharmacy related employers of his Notice and Order
8 in Case No. 2007-0107 and failed to provide the required written notification to the Board as
9 required by his probation and failed to comply with all conditions of his PRN contract, and he
10 was dishonest with Board staff and PRN staff when questioned about his employment; and (2)
11 Respondent illegally obtained, possessed, and used prescription controlled substances after being
12 placed on probation in Case No. 2007-0107; and (3) Respondent agreed on or about December
13 12, 2007 to the PRN Director that he would not enter a pharmacy due to non-compliance with his
14 PRN contract; and (4) Respondent, after meeting with both the Board Compliance Director and
15 the PRN Director that he was still barred from entering a pharmacy due to additional non-
16 compliance with his PRN contract and his Board Probation; and (5) Respondent had been
17 working in a pharmacy on a regular basis since the above aforementioned agreement; and (6)
18 Respondent failed to comply with his probation and all laws and rules regarding pharmacy
19 practice; and (7) Respondent's violations of Oregon law constitute unprofessional conduct.

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

22 PRAYER

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

25 1. Revoking or suspending Pharmacist License Number RPH 50571, issued
26 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: July 31, 2009

Heather Herold for
VIRGINIA K. HEROLD

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

Complainant

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6

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 Against:

Case No. 3242

12 JOHNNY THOMAS LANG
5504 Ginger Drive
13 Bakersfield, CA 93309
Pharmacist License No. RPH 50571
14

**ORDER FOR AUTOMATIC
SUSPENSION OF
PHARMACIST LICENSE**

15 Respondent.

16
17 **JURISDICTION**

18 1. Virginia K. Herold, acting solely in her capacity as Executive Officer for
19 the Board of Pharmacy, issues the present Order for Automatic Suspension of a Pharmacist
20 License.

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

24 3. Business and Professions Code section 4301.5 states, in pertinent part:

25 (a) If a pharmacist possesses a license or is otherwise
26 authorized to practice pharmacy in any other state or by an agency of the federal
27 government, and that license or authority is suspended or revoked, the
28 pharmacist's license shall be suspended automatically for the duration of the
suspension or revocation, unless terminated or rescinded as provided in

1 subdivision (c). The board shall notify the pharmacist of the license suspension
2 and of his or her right to have the issue of penalty heard as provided in this
section.

3 * * * *

4 (c) The issue of penalty shall be heard by an administrative law judge,
5 sitting alone, or by a committee of the board sitting with an administrative law
6 judge, at the board's discretion. A pharmacist may request a hearing on the
7 penalty, and that hearing shall be held within 90 days from the date of the request.
8 If the order suspending or revoking the pharmacist's license or authority to
practice pharmacy is overturned on appeal, any discipline ordered pursuant to this
section shall automatically cease. Upon the showing to the administrative law
9 judge, board, or committee of the board by the pharmacist that the out-of-state
action is not a basis for discipline in California, the suspension shall be rescinded.

9 * * * *

10 (e) If a summary suspension has been issued pursuant to this section,
11 the pharmacist may request that the hearing on the penalty conducted pursuant to
12 subdivision (c) be held at the same time as a hearing on the accusation.

12 BASIS FOR ORDER

13 4. On or about May 7, 2008, the Board received notification from the Oregon
14 State Board of Pharmacy (hereinafter "the Oregon Board") that the Oregon Board had revoked
15 Respondent's right to practice pharmacy in Oregon on or about February 28, 2008.

16 5. On or about May 7, 2008, the Board received a certified copy of the
17 Consent Order issued by the Oregon Board revoking Respondent's pharmacist license.

18 ORDER


19 **YOU ARE HEREBY NOTIFIED** that pursuant to the Board's authority under
20 Business and Professions Code section 4301.5, subdivision (a), Pharmacist License Number
21 50571, is automatically suspended from the effective date of this Order, unless terminated or
22 rescinded, provided in subdivision (c) of that Code.

23 **YOU ARE HEREBY FURTHER NOTIFIED** that you have the right to have
24 the issue of penalty heard as provided in subdivisions (a) and (c). You may request a hearing on
25 the penalty by delivering or mailing a written request for a hearing, signed by you or on your
26 behalf, to the Board, represented by Heather Hua, Deputy Attorney General. Said hearing will
27 be held within ninety (90) days from the date of your request. Pursuant to subdivision (e), you
28 may also request that the hearing on the penalty conducted pursuant to subdivision (c) be held at

1 the same time as a hearing on Accusation Number 3242.

2 This Order for Automatic Suspension of Pharmacist License shall become
3 effective upon signature of a Board member or designee, on the date set forth below.

4 DATED: April 10, 2009

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7 _____
8 KENNETH H. SCHELL
9 PRESIDENT
10 BOARD OF PHARMACY
11 DEPARTMENT OF CONSUMER AFFAIRS
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