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7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Petition to Revoke  
11 Probation Against,

Case No. 5287

12 **KURTIS LAYNE MCKINZEY**  
13 **15 Western Shore Lane #4**  
**San Francisco, CA 94115**  
14 **Pharmacy Technician Registration No. TCH**  
**102783**

PETITION TO REVOKE PROBATION

15 Respondent.

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17  
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about February 4, 2013, the Board issued Pharmacy Technician Registration  
24 Number TCH 102783 to Kurtis Layne McKinzey (Respondent). The Pharmacy Technician  
25 Registration was in effect at all times relevant to the charges brought herein and will expire on  
26 September 30, 2014, unless renewed.

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1 **PRIOR BOARD ACTION**

2 3. In a disciplinary action entitled "In the Matter of Statement of Issues Against Kurtis  
3 Layne McKinzey," Case No. 3996, the Board issued a decision, effective May 4, 2012, in which  
4 Respondent's Pharmacy Technician Registration was ordered issued upon the satisfaction of all  
5 statutory and regulatory requirements for licensure, but immediately revoked. However, the  
6 decision ordered the revocation stayed and Respondent's Pharmacy Technician Registration  
7 placed on probation for a period of three (3) years with certain terms and conditions. A copy of  
8 that decision is attached as Exhibit A and is incorporated by reference.

9 **JURISDICTIONAL AND STATUTORY PROVISIONS**

10 4. This Petition to Revoke Probation is brought before the Board, Department of  
11 Consumer Affairs, under the authority of the following laws. All section references are to the  
12 Business and Professions Code (Code) unless otherwise indicated.

13 5. Section 4300 of the Code states:

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

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

18 "(1) Suspending judgment.

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

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

21 "(4) Revoking his or her license.

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

24 "(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The  
25 board may, in its sole discretion, issue a probationary license to any applicant for a license who is  
26 guilty of unprofessional conduct and who has met all other requirements for licensure. The board  
27 may issue the license subject to any terms or conditions not contrary to public policy, including,  
28 but not limited to, the following:







1 D. Respondent failed to call in or log on to the FirstLab system to report for testing on  
2 May 9, May 10, and May 11, 2014.

3 E. Respondent thereafter completely stopped calling in or logging on to the FirstLab  
4 system. Respondent did not call in or log on from May 12, 2014, through at least June 15, 2014.

5 F. Respondent's failure to call in or log on to FirstLab during this period resulted in  
6 Respondent missing scheduled tests on May 29 and May 31, 2014.

7 **PRAYER**

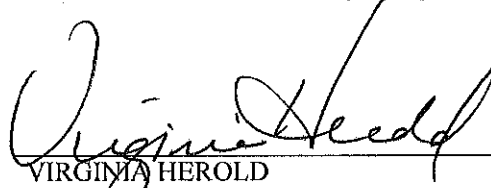
8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
9 and that following the hearing, the Board of Pharmacy issue a decision:

10 1. Revoking the probation that was granted by the Board of Pharmacy in Case No. 3996  
11 and imposing the disciplinary order that was stayed, thereby revoking Pharmacy Technician  
12 Registration No. TCH 102783 issued to Kurtis Layne McKinzey;

13 2. Taking such other and further action as is deemed necessary and proper.

14  
15 DATED: \_\_\_\_\_

11/4/14



16 VIRGINIA HEROLD  
17 Executive Officer  
18 Board of Pharmacy  
19 Department of Consumer Affairs  
20 State of California  
21 Complainant

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## **Exhibit A**

**Decision and Order**

**Board of Pharmacy Case No. 3996**

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

In the Matter of the Statement of Issues Against:

Case No. 3996

**KURTIS LAYNE MCKINZEY**  
**15 Western Shore Lane #4**  
**San Francisco, CA 94115**

Respondent.

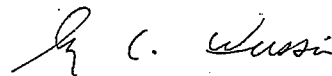
**DECISION AND ORDER**

The attached Stipulated Settlement 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 May 4,, 2012.

It is so ORDERED on April 4, 2012.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
STANLEY C. WEISSER  
Board President



1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 BRETT A. KINGSBURY  
Deputy Attorney General  
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*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Statement of Issues  
11 Against:

12 **KURTIS LAYNE MCKINZEY**

13 Respondent.

Case No. 3996

OAH No. 2011090733  
**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

14  
15 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
16 entitled proceedings that the following matters are true:

17 PARTIES

- 18 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
19 She brought this action solely in her official capacity and is represented in this matter by Kamala  
20 D. Harris, Attorney General of the State of California, by Brett A. Kingsbury, Deputy Attorney  
21 General.  
22 2. Respondent Kurtis Layne McKinzey (Respondent) is representing himself in this  
23 proceeding and has chosen not to exercise his right to be represented by counsel.  
24 3. On or about April 15, 2010, Respondent filed an application dated April 12, 2010,  
25 with the Board of Pharmacy to obtain Pharmacy Technician Registration license.

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1 he is certified as defined by Business and Professions Code section 4202(a)(4) and provides  
2 satisfactory proof of certification to the board. Respondent shall not resume working as a  
3 pharmacy technician until notified by the board. Failure to achieve certification within one (1)  
4 year shall be considered a violation of probation. Respondent shall not resume working as a  
5 pharmacy technician until notified by the board.

6 During suspension, respondent shall not enter any pharmacy area or any portion of any  
7 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other  
8 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and  
9 devices or controlled substances are maintained. Respondent shall not do any act involving drug  
10 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent  
11 manage, administer, or assist any licensee of the board. Respondent shall not have access to or  
12 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled  
13 substances. Respondent shall not resume work until notified by the board.

14 Subject to the above restrictions, respondent may continue to own or hold an interest in any  
15 licensed premises by the board in which he holds an interest at the time this decision becomes  
16 effective unless otherwise specified in this order.

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

18 **2. Obey All Laws**

19 Respondent shall obey all state and federal laws and regulations.

20 Respondent shall report any of the following occurrences to the board, in writing, within  
21 seventy-two (72) hours of such occurrence:

- 22  an arrest or issuance of a criminal complaint for violation of any provision of the  
23 Pharmacy Law, state and federal food and drug laws, or state and federal controlled  
24 substances laws
- 25  a plea of guilty or nolo contendere in any state or federal criminal proceeding to any  
26 criminal complaint, information or indictment
- 27  a conviction of any crime
- 28  discipline, citation, or other administrative action filed by any state or federal agency

1 which involves respondent's Pharmacy Technician Registration license or which is  
2 related to the practice of pharmacy or the manufacturing, obtaining, handling,  
3 distributing, billing, or charging for any drug, device or controlled substance.

4 Failure to timely report any such occurrence shall be considered a violation of probation.

5 **3. Report to the Board**

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

14 **4. Interview with the Board**

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

20 **5. Cooperate with Board Staff**

21 Respondent shall cooperate with the board's inspection program and with the board's  
22 monitoring and investigation of respondent's compliance with the terms and conditions of his  
23 probation. Failure to cooperate shall be considered a violation of probation.

24 **6. Notice to Employers**

25 During the period of probation, respondent shall notify all present and prospective  
26 employers of the decision in case number 3996 and the terms, conditions and restrictions imposed  
27 on respondent by the decision, as follows:

28 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of

1 respondent undertaking any new employment, respondent shall cause his direct supervisor,  
2 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's  
3 tenure of employment) and owner to report to the board in writing acknowledging that the listed  
4 individual(s) has/have read the decision in case number 3996 and the terms and conditions  
5 imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or  
6 supervisor(s) submit timely acknowledgement(s) to the board.

7 If respondent works for or is employed by or through a pharmacy employment service,  
8 respondent must notify his direct supervisor, pharmacist-in-charge and owner at every pharmacy  
9 of the terms and conditions of the decision in case number 3996 in advance of the respondent  
10 commencing work at each pharmacy. A record of this notification must be provided to the board  
11 upon request.

12 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
13 (15) days of respondent undertaking any new employment by or through a pharmacy employment  
14 service, respondent shall cause his direct supervisor with the pharmacy employment service to  
15 report to the board in writing acknowledging that he has read the decision in case number 3996  
16 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure  
17 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

18 Failure to timely notify present or prospective employer(s) or to cause that/those  
19 employer(s) to submit timely acknowledgements to the board shall be considered a violation of  
20 probation.

21 "Employment" within the meaning of this provision shall include any full-time,  
22 part-time, temporary or relief service or pharmacy management service as a pharmacy  
23 technician or in any position for which a pharmacy technician license is a requirement  
24 or criterion for employment, whether the respondent is considered an employee,  
25 independent contractor or volunteer.

#### 26 **7. Probation Monitoring Costs**

27 Respondent shall pay any costs associated with probation monitoring as determined by the  
28 board each and every year of probation. Such costs shall be payable to the board on a schedule as

1 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall  
2 be considered a violation of probation.

3 **8. Status of License**

4 Respondent shall, at all times while on probation, maintain an active, current pharmacy  
5 technician license with the board, including any period during which suspension or probation is  
6 tolled. Failure to maintain an active, current license shall be considered a violation of probation.

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

11 **9. License Surrender While on Probation/Suspension**

12 Following the effective date of this decision, should respondent cease work due to  
13 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,  
14 respondent may tender his pharmacy technician license to the board for surrender. The board or  
15 its designee shall have the discretion whether to grant the request for surrender or take any other  
16 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the  
17 license, respondent will no longer be subject to the terms and conditions of probation. This  
18 surrender constitutes a record of discipline and shall become a part of the respondent's license  
19 history with the board.

20 Upon acceptance of the surrender, respondent shall relinquish his pharmacy technician  
21 license to the board within ten (10) days of notification by the board that the surrender is  
22 accepted. Respondent may not reapply for any license, permit, or registration from the board for  
23 three (3) years from the effective date of the surrender. Respondent shall meet all requirements  
24 applicable to the license sought as of the date the application for that license is submitted to the  
25 board.

26 **10. Notification of a Change in Name, Residence Address, Mailing Address or**  
27 **Employment**

28 Respondent shall notify the board in writing within ten (10) days of any change of

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

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

7 **11. Tolling of Probation**

8 Except during periods of suspension, respondent shall, at all times while on probation, be  
9 employed as a pharmacy technician in California for a minimum of 20 hours per calendar month.  
10 Any month during which this minimum is not met shall toll the period of probation, i.e., the  
11 period of probation shall be extended by one month for each month during which this minimum is  
12 not met. During any such period of tolling of probation, respondent must nonetheless comply  
13 with all terms and conditions of probation.

14 Should respondent, regardless of residency, for any reason (including vacation) cease  
15 working as a pharmacy technician for a minimum of 20 hours per calendar month in California,  
16 respondent must notify the board in writing within ten (10) days of cessation of work and must  
17 further notify the board in writing within ten (10) days of the resumption of the work. Any failure  
18 to provide such notification(s) shall be considered a violation of probation.

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

22 "Cessation of work" means calendar month during which respondent is not  
23 working for at least 20 hours as a pharmacy technician, as defined in Business and  
24 Professions Code section 4115. "Resumption of work" means any calendar month  
25 during which respondent is working as a pharmacy technician for at least 20 hours as  
26 a pharmacy technician as defined by Business and Professions Code section 4115.

27 **12. Violation of Probation**

28 If a respondent has not complied with any term or condition of probation, the board shall



1 have continuing jurisdiction over respondent, and probation shall automatically be extended, until  
2 all terms and conditions have been satisfied or the board has taken other action as deemed  
3 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and  
4 to impose the penalty that was stayed.

5 If respondent violates probation in any respect, the board, after giving respondent notice  
6 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that  
7 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a  
8 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If  
9 a petition to revoke probation or an accusation is filed against respondent during probation, the  
10 board shall have continuing jurisdiction, and the period of probation shall be automatically  
11 extended until the petition to revoke probation or accusation is heard and decided.

12 **13. Completion of Probation**

13 Upon written notice by the board indicating successful completion of probation,  
14 respondent's pharmacy technician license will be fully restored.

15 **14. No Ownership of Licensed Premises**

16 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,  
17 administrator, member, officer, director, trustee, associate, or partner of any business, firm,  
18 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell  
19 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)  
20 days following the effective date of this decision and shall immediately thereafter provide written  
21 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide  
22 documentation thereof shall be considered a violation of probation.

23 **15. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**  
24 **Upon Failed Drug Screen**

25 Upon one confirmed positive drug screen, respondent shall begin regular attendance at a  
26 recognized and established substance abuse recovery support group in California, (e.g.,  
27 Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board or its  
28 designee. Respondent must attend at least one group meeting per week unless otherwise directed

1 by the board or its designee. Respondent shall continue regular attendance and submit signed and  
2 dated documentation confirming attendance with each quarterly report for the duration of  
3 probation. Failure to attend or submit documentation thereof shall be considered a violation of  
4 probation.

5 **16. Random Drug Screening**

6 Respondent, at his own expense, shall participate in random testing, including but not  
7 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug  
8 screening program as directed by the board or its designee. Respondent may be required to  
9 participate in testing for the entire probation period and the frequency of testing will be  
10 determined by the board or its designee. At all times respondent shall fully cooperate with the  
11 board or its designee, and shall, when directed, submit to such tests and samples for the detection  
12 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its  
13 designee may direct. Failure to timely submit to testing as directed shall be considered a violation  
14 of probation. Upon request of the board or its designee, respondent shall provide documentation  
15 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is  
16 a necessary part of the treatment of the respondent. Failure to timely provide such documentation  
17 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any  
18 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment  
19 shall be considered a violation of probation and shall result in the automatic suspension of work  
20 by respondent. Respondent may not resume work as a pharmacy technician until notified by the  
21 board in writing.

22 During suspension, respondent shall not enter any pharmacy area or any portion of or any  
23 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other  
24 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and  
25 devices or controlled substances are maintained. Respondent shall not do any act involving drug  
26 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent  
27 manage, administer, or assist any licensee of the board. Respondent shall not have access to or  
28 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled

1 substances. Respondent shall not resume work until notified by the board.

2 Respondent shall not direct, control or perform any aspect of the practice of pharmacy.  
3 Subject to the above restrictions, respondent may continue to own or hold an interest in any  
4 licensed premises in which he holds an interest at the time this decision becomes effective unless  
5 otherwise specified in this order.

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

7 **17. Notification of Departure**

8 Prior to leaving the probationary geographic area designated by the board or its designee for  
9 a period greater than twenty-four (24) hours, respondent shall notify the board verbally and in  
10 writing of the dates of departure and return. Failure to comply with this provision shall be  
11 considered a violation of probation.

12 **18. Abstain from Drugs and Alcohol Use**

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

24 **19. Prescription Coordination and Monitoring of Use**

25 Within thirty (30) days of the effective date of this decision, respondent shall submit to the  
26 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,  
27 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's  
28 history with alcohol and controlled substances and who will coordinate and monitor any

1 prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs.  
2 The approved practitioner shall be provided with a copy of the board's Statement of Issues and  
3 decision. A record of this notification must be provided to the board upon request. Respondent  
4 shall sign a release authorizing the practitioner to communicate with the board about respondent's  
5 treatment(s). The coordinating physician, nurse practitioner, physician assistant, or psychiatrist  
6 shall report to the board on a quarterly basis for the duration of probation regarding respondent's  
7 compliance with this condition. If any substances considered addictive have been prescribed, the  
8 report shall identify a program for the time limited use of any such substances. The board may  
9 require that the single coordinating physician, nurse practitioner, physician assistant or  
10 psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine.  
11 Should respondent, for any reason, cease supervision by the approved practitioner, respondent  
12 shall notify the board immediately and, within thirty (30) days of ceasing treatment, submit the  
13 name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist of  
14 respondent's choice to the board or its designee for its prior approval. Failure to timely submit  
15 the selected practitioner or replacement practitioner to the board for approval, or to ensure the  
16 required reporting thereby on the quarterly reports, shall be considered a violation of probation.

17 If at any time an approved practitioner determines that respondent is unable to practice  
18 safely as a Pharmacy Technician, the practitioner shall notify the board immediately by telephone  
19 and follow up by written letter within three (3) working days. Upon notification from the board  
20 or its designee of this determination, respondent shall be automatically suspended and shall not  
21 resume practice until notified by the board that practice may be resumed.

22 During suspension, respondent shall not enter any pharmacy area or any portion of the  
23 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of  
24 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices  
25 or controlled substances are maintained. Respondent shall not practice as a Pharmacy Technician  
26 nor do any act involving drug selection, selection of stock, manufacturing, compounding,  
27 dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to  
28 any licensee of the board, or have access to or control the ordering, manufacturing or dispensing

1 of dangerous drugs and controlled substances. Respondent shall not resume practice until  
2 notified by the board.

3 During suspension, Respondent shall not perform the duties of a pharmacy technician or a  
4 designated representative for any entity licensed by the board. Subject to the above restrictions,  
5 respondent may continue to own or hold an interest in any licensed premises in which he or she  
6 holds an interest at the time this decision becomes effective unless otherwise specified in this  
7 order. Failure to comply with this suspension shall be considered a violation of probation.

8 ACCEPTANCE

9 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the  
10 stipulation and the effect it will have on my Pharmacy Technician Registration license. I enter  
11 into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently,  
12 and agree to be bound by the Decision and Order of the Board of Pharmacy.

13 DATED: 02-01-2012 Kurtis L. McKinze  
14 KURTIS LAYNE MCKINZEY  
15 Respondent

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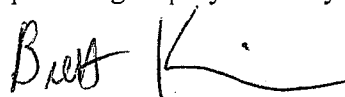
ENDORSEMENT

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

Dated: Feb 22, 2012

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
FRANK H. PACOE  
Supervising Deputy Attorney General



BRETT A. KINGSBURY  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Statement of Issues No. 3996**

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 BRETT A. KINGSBURY  
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11 In the Matter of the Statement of Issues  
Against:

Case No. 3996

12 **KURTIS LAYNE MCKINZEY**  
13 **15 Western Shore Ln., #4**  
**San Francisco, CA 94115**

**STATEMENT OF ISSUES**

14 Respondent.

15  
16 Complainant alleges:

17 PARTIES

- 18 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official  
19 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
20 2. On or about April 15, 2010, the Board of Pharmacy, Department of Consumer Affairs  
21 received an application for Pharmacy Technician Registration from Kurtis Layne McKinzey  
22 (Respondent). On or about April 12, 2010, Respondent certified under penalty of perjury to the  
23 truthfulness of all statements, answers, and representations in the application. The Board denied  
24 the application on October 20, 2010.

25 JURISDICTION

- 26 3. This Statement of Issues 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 unless otherwise indicated.



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4. Section 118(a) of the Code states:

"(a) The withdrawal of an application for a license after it has been filed with a board in the department shall not, unless the board has consented in writing to such withdrawal, deprive the board of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground."

STATUTORY AND REGULATORY PROVISIONS

5. Section 480 of the Code states:

"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

". . . .

"(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

"(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

". . . ."

6. Section 4300 of the Code states:

". . . .

"(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy . . . .

". . . .

"(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

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7. Section 4301 of the Code states:

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

". . . .

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

"(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

". . . .

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

". . . .

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

". . . ."

8. Section 4324(a) of the Code states:

"Every person who signs the name of another, or of a fictitious person, or falsely makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year."

DRUGS

9. Norco® is a brand name drug consisting of hydrocodone 10mg and acetaminophen (APAP) 325mg. It is a dangerous drug per B&P 4022 and categorized as Schedule III narcotic controlled substance per H&S 11056(e)(4).

1 10. Hydrocodone is a Schedule II controlled substance pursuant to Health & Safety Code  
2 section 11055, subdivision (b)(1)(I), and a dangerous drug within the meaning of Code section  
3 4022.

4 FIRST CAUSE FOR DENIAL OF APPLICATION

5 (Act Involving Dishonesty)

6 11. Respondent's application is subject to denial under §§ 480(a), 4300, and 4301(f) of  
7 the Code in that Respondent committed an act involving dishonesty, fraud, or deceit, with an  
8 intent to benefit himself or harm another. Specifically, in 1998, Respondent illegally obtained  
9 and attempted to use a physician's DEA number, writing himself a prescription for Norco®,  
10 which is a medication containing Hydrocodone.

11 SECOND CAUSE FOR DENIAL OF APPLICATION

12 (Knowingly Signing a False Document)

13 12. Respondent's application is subject to denial under §§ 480(a), 4300, and 4301(g) of  
14 the Code in that Respondent knowingly signed a false document. The details are described above  
15 in the First Cause for Denial of Application.

16 THIRD CAUSE FOR DENIAL OF APPLICATION

17 (Prescription Forgery)

18 13. Respondent's application is subject to denial under §§ 4301(j) and 4324(a) of the  
19 Code in that Respondent attempted to pass as genuine a false prescription for drugs. The details  
20 are described above in the First Cause for Denial of Application.

21 FOURTH CAUSE FOR DENIAL OF APPLICATION

22 (Out-of-State Discipline)

23 14. Respondent's application is subject to denial under §§ 480(a), 4300, and 4301(n) of  
24 the Code in that Respondent's certificate to practice as a pharmacy technician in the State of  
25 Washington was disciplined on April 5, 2000. Specifically, based on the conduct described above  
26 in the First Cause for Denial of Application, the State of Washington revoked Respondent's  
27 certificate.

28 ///

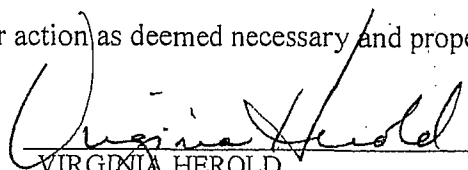
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PRAYER

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

1. Denying the application of Kurtis Layne McKinzey for a Pharmacy Technician Registration;
2. Taking such other and further action as deemed necessary and proper.

DATED: 7/15/11



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

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