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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 First Amended Accusation
Against:

Case No. 5379

12 **KRISTIN LEASE-SHAW, aka**
13 **KRISTIN LEASE OBERHAUS and**
14 **KRISTIN ROLFE LEASE OBERHAUS**
15 **P.O. Box 9394**
South Lake Tahoe, CA 96158

OAH No. 2015040392

FIRST AMENDED ACCUSATION

Pharmacist License No. RPH 52971

Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this First Amended Accusation solely in her
21 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
22 Affairs. This First Amended Accusation replaces in its entirety Accusation No. 5379 filed on
23 February 25, 2015.

24 2. On or about September 14, 2001, the Board of Pharmacy issued Pharmacist License
25 Number RPH 52971 to Kristin Lease-Shaw, also known as, Kristin Lease Oberhaus and Kristin
26 Rolfe Lease Oberhaus (Respondent). The Pharmacist License was in full force and effect at all
27 times relevant to the charges brought herein, but expired on August 31, 2015. On or about
28 October 5, 2004, Respondent surrendered her license to the Board pursuant to Penal Code section

1 23, in the criminal proceeding entitled *People v. Kristin Rolfe Lease Oberhaus* (El Dorado
2 Superior Court Case No. S04SRF0309), and the license was suspended by the Board for one year.
3 On or about November 10, 2005, in a prior disciplinary action entitled *In the Matter of the*
4 *Accusation Against Kristin Lease Overhaus, aka Kristin Rolfe Lease Oberhaus* before the Board
5 of Pharmacy, in Case Number 2815, Respondent's license was revoked, with revocation stayed,
6 one year suspension, and placed on probation for five years, with certain terms and conditions,
7 including, but not limited to: continuous supervised practice, no access to controlled substances,
8 random drug screening, abstinence from drug and alcohol use, and completion of a drug
9 rehabilitation program. On or about February 10, 2015, in this pending disciplinary action
10 entitled *In the Matter of the Ex Parte Interim Suspension Order Against Kristin Lease-Shaw*,
11 before the Board of Pharmacy, in Case Number 5379, Respondent's license was suspended and
12 remains suspended pursuant to Business and Professions Code section 494.

13 JURISDICTION

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

17 STATUTORY PROVISIONS

18 4. Section 4301 of the Code states:

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

22 ...

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

26 ...

27 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
28 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to

1 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
2 to the extent that the use impairs the ability of the person to conduct with safety to the public the
3 practice authorized by the license.

4 . . .

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

7 5. Section 4059 of the Code states, in pertinent part, that a person may not furnish any
8 dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,
9 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

10 6. Section 4060 of the Code states, in pertinent part, that no person shall possess any
11 controlled substance, except that furnished to a person upon the prescription of a physician,
12 dentist, podiatrist, optometrist, veterinarian, or other specifically enumerated licensed health care
13 provider.

14 7. Section 492 of the Code states, in pertinent part:

15 "Notwithstanding any other provision of law, successful completion of any diversion
16 program under the Penal Code, or successful completion of an alcohol and drug problem
17 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of
18 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2
19 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that
20 division, from taking disciplinary action against a licensee or from denying a license for
21 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a
22 record pertaining to an arrest."

23 8. Health and Safety Code section 11170 states:

24 No person shall prescribe, administer, or furnish a controlled substance for
25 himself.

26 9. Health and Safety Code section 11173 states, in pertinent part:

27 (a) No person shall obtain or attempt to obtain controlled substances, or
28 procure or attempt to procure the administration of or prescription for controlled
substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the
concealment of a material fact.

1 10. Health and Safety Code section 11350 states:

2 (a) Except as otherwise provided in this division, every person who
3 possesses (1) any controlled substance specified in subdivision (b), (c), (e), or
4 paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or
5 (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of
6 Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled
7 substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the
8 written prescription of a physician, dentist, podiatrist, or veterinarian licensed to
9 practice in this state, shall be punished by imprisonment in a county jail for not more
10 than one year, except that such person shall instead be punished pursuant to
11 subdivision (h) of Section 1170 of the Penal Code if that person has one or more prior
12 convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph
13 (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring
14 registration pursuant to subdivision (c) of Section 290 of the Penal Code.

15 (b) Except as otherwise provided in this division, whenever a person who
16 possesses any of the controlled substances specified in subdivision (a), the judge may,
17 in addition to any punishment provided for pursuant to subdivision (a), assess against
18 that person a fine not to exceed seventy dollars (\$70) with proceeds of this fine to be
19 used in accordance with Section 1463.23 of the Penal Code. The court shall, however,
20 take into consideration the defendant's ability to pay, and no defendant shall be denied
21 probation because of his or her inability to pay the fine permitted under this
22 subdivision.

23 (c) Except in unusual cases in which it would not serve the interest of
24 justice to do so, whenever a court grants probation pursuant to a felony conviction
25 under this section, in addition to any other conditions of probation which may be
26 imposed, the following conditions of probation shall be ordered:

27 (1) For a first offense under this section, a fine of at least one thousand
28 dollars (\$1,000) or community service.

 (2) For a second or subsequent offense under this section, a fine of at least
two thousand dollars (\$2,000) or community service.

 (3) If a defendant does not have the ability to pay the minimum fines
specified in paragraphs (1) and (2), community service shall be ordered in lieu of the
fine.

COST RECOVERY

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

CONTROLLED SUBSTANCES

12. "Ambien," is a brand of zolpidem tartrate, and a Schedule IV controlled substance as
designated by Health and Safety Code section 11057, subdivision (d)(32).

NDC Number	Trade Name of Drug	Dosage Strength	Amended Quantity Lost/Stolen
CVS Store No. 9490, Pollock Pines; audit period of 04/30/2014 to 12/18/2014			
00093007401	Zolpidem Tartrate	10 mg	156
00278041510	Diphenoxylate-atropine	2.5 mg - .025 mg	1222
00093035001	Acetaminophen – Codeine #4	300 mg – 60 mg	477
00406012505	Hydrocodone/APAP 10/325	10 mg – 325 mg	1,126
00603389028	Hydrocodone/APAP 5/325	5 mg – 325 mg	(overage)
00603389128	Hydrocodone/APAP 7.5 mg – 325 mg	7.5 mg – 325 mg	193
CVS Store No. 9174, Truckee; audit period of 05/01/2014 – 01/05/2015			
00093007401	Zolpidem Tartrate	10 mg	313
00603389028	Hydrocodone/APAP 5	5 mg – 325 mg	18
00603389121	Hydrocodone/APAP 7.5	7.5 mg – 325 mg	114
00406012505	Hydrocodone/APAP 10	10 mg – 325 mg	197
CVS Store No. 9976, Tahoe City; audit period of 10/15/2014 – 12/18/2014			
00093007401	Zolpidem Tartrate	10 mg	111
00093015010	Acetaminophen – Codeine #3	300 mg – 30 mg	100 (reported, but audit shows overage)
00093035001	Acetaminophen – Codeine #4	300 mg – 60 mg	100
00603389128	Hydrocodone/APAP 7.5 mg – 325 mg	7.5 mg – 325 mg	200

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Moral Turpitude, Dishonesty, Fraud, Deceit)

19. Respondent is subject to disciplinary action under section 4301, subsections (f) and (j), on the grounds of unprofessional conduct, in that she stole controlled substances from her employer, for self-administration, while on duty as a licensed pharmacist, as alleged above, in violation of Health and Safety Code section 11173, subdivision (a).

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Possession of Controlled Substances)

20. Respondent is subject to disciplinary action under section 4301, subsection (j) and section 4060, on the grounds of unprofessional conduct, in that Respondent possessed controlled substances, without a valid prescription, as alleged above, in violation of Health and Safety Code section 11350, subsection (a).

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PRAYER

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

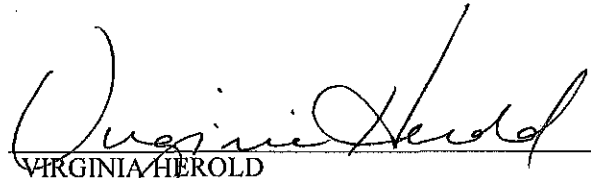
1. Revoking or suspending Pharmacist License Number RPH 52971, issued to Kristin Lease-Shaw;

2. Ordering Kristin Lease-Shaw 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:

10/5/15



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

SA2015100310

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the *Ex Parte* Interim
Suspension Order Against:

12 **KRISTIN LEASE-SHAW**

13
14 Respondent.

15 Pharmacist License No. RPH 52971
16

Case No. 5379
OAH Case No. 2015020084

INTERIM SUSPENSION ORDER

(Bus. & Prof. Code § 494)

Date: February 10, 2015

Time: 9:00 a.m.

**Location: Office of Administrative
Hearings, Sacramento**

17
18 On January 10, 2012, at approximately 9:00 a.m. this matter came before the Office of
19 Administrative Hearings on Petitioner's properly noticed *Ex Parte* Petition for an Interim
20 Suspension Order, the Honorable Dian Vorters, presiding. Deputy Attorney General Phillips
21 appeared on behalf of Petitioner, Board of Pharmacy and Stuart Katz, appeared on behalf of
22 Respondent, Kristin Lease-Shaw. Having reviewed all evidence presented and good cause
23 appearing, it is determined that:

24 1. Respondent has engaged in acts constituting violations of violations of Business
25 and Professions Code sections 4301(f), 4059, 4060, 4327 and Health and Safety Code section
26 11170.

27 2. Permitting Respondent to continue to act as a pharmacist will endanger the
28 public health, safety, or welfare; and,

ALJ
Dian V. Jensen
2-10-2015

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3. It appears from the Petition and supporting documents that serious injury would result to the public before the matter could be heard on notice.

IT IS HEREBY ORDERED THAT

1. Original Pharmacist License No. RPH 52971 issued to Kristin Lease-Shaw (Respondent) is immediately suspended pending further formal disciplinary action by the Board of Pharmacy and issuance of a final decision and order in such disciplinary action. ~~The next date for a fully noticed hearing to allow Respondent to present affidavits and other documentary evidence and present oral argument will occur within twenty (20) days, and will take place at _____ m. on _____ at the Office of Administrative Hearings, Sacramento.~~ *Noticed hearing on this ISO is waived by respondent.*

2. During the suspension Respondent shall not practice as a pharmacist directly or indirectly, nor shall Respondent receive or have set aside for future receipt, any new monies derived from the practice of pharmacy as defined by the provisions of Business and Professions Code section 4037 or 4200, et seq.

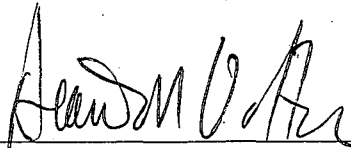
3. Respondent shall not mislead any person or any entity regarding the reasons for the suspension of her pharmacist license.

4. Respondent shall immediately surrender to a designated Board representative all evidence of licensure, including, but not limited to, any pocket license or wall license and DEA registration.

This order is hereby issued and effective immediately.

IT IS SO ORDERED.

Date: *Feb. 10, 2015*



Administrative Law Judge

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
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11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 5379

13 **KRISTIN LEASE-SHAW, aka**
14 **KRISTIN LEASE OBERHAUS and**
15 **KRISTIN ROLFE LEASE OBERHAUS**
16 **P.O. Box 9394**
17 **South Lake Tahoe, CA 96158**
18 **Pharmacist License No. RPH 52971**

A C C U S A T I O N

Respondent.

19 Complainant alleges:

20 **PARTIES**

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

22 2. On or about September 14, 2001, the Board of Pharmacy issued Pharmacist License
23 Number RPH 52971 to Kristin Lease-Shaw, also known as, Kristin Lease Oberhaus and Kristin
24 Rolfe Lease Oberhaus (Respondent). The Pharmacist License was in full force and effect at all
25 times relevant to the charges brought herein and will expire on August 31, 2015, unless renewed.

26 On or about October 5, 2004, Respondent surrendered her license to the Board pursuant to Penal
27 Code section 23, in the criminal proceeding entitled *People v. Kristin Rolfe Lease Oberhaus* (El
28 Dorado Superior Court Case No. S04SRF0309), and the license was suspended by the Board for

1 one year. On or about November 10, 2005, in a prior disciplinary action entitled *In the Matter of*
2 *the Accusation Against Kristin Lease Overhaus, aka Kristin Rolfe Lease Oberhaus* before the
3 Board of Pharmacy, in Case Number 2815, Respondent's license was revoked, with revocation
4 stayed, one year suspension, and placed on probation for five years, with certain terms and
5 conditions, including, but not limited to: continuous supervised practice, no access to controlled
6 substances, random drug screening, abstinence from drug and alcohol use, and completion of a
7 drug rehabilitation program. On or about February 10, 2015, in this pending disciplinary action
8 entitled *In the Matter of the Ex Parte Interim Suspension Order Against Kristin Lease-Shaw*,
9 before the Board of Pharmacy, in Case Number 5379, Respondent's license was suspended and
10 remains suspended pursuant to Business and Professions Code section 494.

11 **JURISDICTION**

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

15 **STATUTORY PROVISIONS**

16 4. Section 4301 of the Code states:

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

20 . . .

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

24 . . .

25 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
26 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
27 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
28 to the extent that the use impairs the ability of the person to conduct with safety to the public the

1 practice authorized by the license.

2 . . .

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

5 5. Section 4059 of the Code states, in pertinent part, that a person may not furnish any
6 dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,
7 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

8 6. Section 4060 of the Code states, in pertinent part, that no person shall possess any
9 controlled substance, except that furnished to a person upon the prescription of a physician,
10 dentist, podiatrist, optometrist, veterinarian, or other specifically enumerated licensed health care
11 provider.

12 7. Section 492 of the Code states, in pertinent part:

13 "Notwithstanding any other provision of law, successful completion of any diversion
14 program under the Penal Code, or successful completion of an alcohol and drug problem
15 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of
16 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2
17 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that
18 division, from taking disciplinary action against a licensee or from denying a license for
19 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a
20 record pertaining to an arrest."

21 8. Health and Safety Code section 11170 states:

22 No person shall prescribe, administer, or furnish a controlled substance for
23 himself.

24 9. Health and Safety Code section 11173 states, in pertinent part:

25 (a) No person shall obtain or attempt to obtain controlled substances, or
26 procure or attempt to procure the administration of or prescription for controlled
substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the
concealment of a material fact.

27 //

28 //

1 18. Respondent is subject to disciplinary action under section 4301, subsection (j) and
2 section 4060, on the grounds of unprofessional conduct, in that Respondent possessed controlled
3 substances, without a valid prescription, as alleged in paragraph 16, and in violation of Health and
4 Safety Code section 11350, subsection (a).

5 **THIRD CAUSE FOR DISCIPLINE**

6 (Unprofessional Conduct – Self-Administration of Controlled Substances)

7 19. Respondent is subject to disciplinary action under section 4301, subsections (h) and
8 (j) and section 4059, in that Respondent furnished controlled substances to herself in order to self-
9 medicate herself, without a valid prescription, as alleged in paragraph 16 and in violation of
10 Health and Safety Code section 11170.

11 **DISCIPLINARY CONSIDERATIONS**

12 20. On or about October 5, 2004, Respondent surrendered her license to the Board
13 pursuant to Penal Code section 23, in the criminal proceeding entitled *People v. Kristin Rolfe*
14 *Lease Oberhaus* (El Dorado Superior Court Case No. S04SRF0309), and the license was
15 suspended by the Board for one year. On or about June 3, 2005, in the criminal case entitled
16 *People v. Kristin Rolfe Lease Oberhaus* (El Dorado Superior Court Case No. S04SRF0309),
17 Respondent was convicted by her plea of guilty to violating Penal Code section 487(a) (grand
18 theft by embezzlement), a misdemeanor.

19 21. On or about November 10, 2005, in a prior disciplinary action entitled *In the Matter*
20 *of the Accusation Against Kristin Lease Overhaus, aka Kristin Rolfe Lease Oberhaus* before the
21 Board of Pharmacy, in Case Number 2815, Respondent's license was revoked, with revocation
22 stayed, one year suspension, and placed on probation for five years, with certain terms and
23 conditions, including, but not limited to: continuous supervised practice, no access to controlled
24 substances, random drug screening, abstinence from drug and alcohol use, and completion of a
25 drug rehabilitation program - the Pharmacists Recovery Program (PRP). That decision is now
26 final and is incorporated by reference as if fully set forth herein.

27 22. On or about February 10, 2015, in this pending disciplinary action entitled *In the*
28 *Matter of the Ex Parte Interim Suspension Order Against Kristin Lease-Shaw*, before the Board

1 of Pharmacy, in Case Number 5379, Respondent's license was suspended and remains suspended
2 pursuant to Business and Professions Code section 494. That decision is incorporated by reference
3 as if fully set forth herein.

4 **PRAYER**

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

7 1. Revoking or suspending Pharmacist License Number RPH 52971, issued to Kristin
8 Lease-Shaw;

9 2. Ordering Kristin Lease-Shaw to pay the Board of Pharmacy the reasonable costs of
10 the investigation and enforcement of this case, pursuant to Business and Professions Code section
11 125.3;

12 3. Taking such other and further action as deemed necessary and proper.

13
14
15 DATED: February 25, 2015

Jeffrey M. Phillips
for
VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

JEFFREY M. PHILLIPS
Deputy Attorney General

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