1	BILL LOCKYER, Attorney General	
2	of the State of California ROBERT BROWNING MILLER, State Bar No. 57819	
3	Deputy Attorney General California Department of Justice	
4	1300 I Street, Suite 125 P.O. Box 944255	
5	Sacramento, CA 94244-2550 Telephone: (916) 322-0253	
6	Facsimile: (916) 327-8643	
7	Attorneys for Complainant	
8		
9	BEFORE THE BOARD OF PHARMAG	
10	DEPARTMENT OF CONSUME STATE OF CALIFORN	
11		
12		Core No. 2907
13	In the Matter of the Accusation Against:	Case No. 2807 OAH Case No. N2006020172
14	TERENCE SCOTT CLARK	
15	7529 Guildwood Street Sacramento, California 95822	STIPULATION FOR
16	Pharmacy Technician Registration No. TCH 40302	SURRENDER, INVALIDATION AND
17	Respondent.	REVOCATION OF PHARMACY TECHNICIAN
18		REGISTRATION, DECISION AND ORDER
19		
20	IT IS STIDI II ATED by and between Deenendert	TEDENCE COTT CLADY
21	IT IS STIPULATED by and between Respondent	
22	Pharmacy Technician Registration Number TCH 40302, (he	
23	"Respondent"), and the Board of Pharmacy, Department of	Consumer Allairs, State of
24	California, that:	
25	1. Respondent is a licensee of the Board of Pha	• `
26	"Board") and has been duly served with the Accusation on f	
27	and accompanying documents. A copy of the Accusation is	
28	is incorporated by reference as though set forth at length her	rein. Respondent is subject to the
	STIPULATION FOR SURRENDER , INVALIDATION AND REVOCATION, DECISION	
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jurisdiction of the Board of Pharmacy in regard to the matters alleged in the Accusation.

Complainant Patricia F. Harris initiated the filing of the Accusation solely in her
 official capacity as the Executive Officer of the Board.

3. Respondent was issued Pharmacy Technician Registration Number TCH 39716
on or about January 2, 2002, which Pharmacy Registration will expire on July 31, 2006, unless
renewed.

Complainant in this matter is represented by Bill Lockyer, Attorney General of
 the State of California, by and through Robert Browning Miller, Deputy Attorney General.
 Respondent is representing himself.

Even though Respondent is representing himself, Respondent understands nature
 of the charges and allegations concerning violations of the Business and Professions Code and
 the Health and Safety Code as stated in the Accusation and his rights under the Administrative
 Procedure Act.

14 6. The Accusation, together with all other statutorily required documents, was duly
15 served on the Respondent, and the Respondent filed a Notice of Defense in a timely manner.

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## WAIVER

17 7. Respondent understands the nature of the charges alleged against him in the Accusation. Further, the Respondent understands that the charges stated in the Accusation 18 19 constitute sufficient cause for disciplining the registration license set forth in the Accusation. 20 The Respondent is fully aware of his right to a hearing on the charges alleged in the Accusation, 21 his right to confront and cross-examine witnesses, his right to present evidence in mitigation or 22 on his behalf, as well as his right to petition for reconsideration, appeal, and any and all other rights which may be accorded Respondent under the California Administrative Procedure Act 23 24 and, with these provisions in mind, Respondent freely, voluntarily, and irrevocably waives and 25 gives up such rights.

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**ADMISSIONS** 

8. Respondent admit that the charges and allegations stated in the Accusation, if
proven at a hearing, constitute cause for imposing discipline on Respondent Pharmacy

STIPULATION FOR SURRENDER , INVALIDATION AND REVOCATION, DECISION AND ORDER

Technician Registration. Should Respondent ever come before the Board, or any other
 government agency responsible for the registering or licensing pharmacy technicians,
 Respondent stipulates that all the charges set forth in the attached Accusation shall be deemed
 to be admitted as facts without the necessity of further proof.

5 9. The foregoing admissions are made only for the purpose of this proceeding 6 and any subsequent proceedings between Respondent and the Board, the Department of 7 Consumer Affairs or the State of California and any of its agencies, and any other 8 government agency responsible for licensing pharmacy technicians. This Stipulation shall 9 not be used or admissible for any purpose in any other civil or criminal proceedings. Further, 10 this Stipulation shall have no force or effect in any other case or proceeding where the Board is 11 not a party thereto. In the event this Stipulation is not adopted by the Board, it shall be null and 12 void, and may not be used by the parties or any other person for any purpose.

13 10. Respondent agrees that the Stipulation constitutes sufficient grounds for the
14 Board's imposition of a penalty against the Pharmacy Technician Registration heretofore issued
15 to Respondent.

16 11. It is understood by Respondent that, in deciding whether to adopt this
17 Stipulation, the Board may receive oral and written communications from the staff of the
18 Department of Consumer Affairs, Board of Pharmacy and the Office of the Attorney General.
19 Communications pursuant to this paragraph shall not disqualify the Board or other persons from
20 future participation in this or any other matter affecting Respondent.

21 12. The Board has incurred investigation and prosecution costs in this matter in the 22 amount of three thousand six hundred dollars and no cents (\$3,600.00). Had this matter gone to 23 a Hearing, the Board, if successful in establishing the allegations set forth in the Accusation, 24 could have recover said costs from Respondent, pursuant to the authority of Business and 25 Professions Code section 125.3. The Board agrees to waive recovery of all investigation and 26 prosecution costs incurred herein, except in eventuality that should Respondent apply for any 27 license issued by the Department of Consumer Affairs, such costs shall be immediately due and 28 owing to the Department of Consumer Affairs.

WHEREFORE, it is stipulated that the Board of Pharmacy, Department of Consumer Affairs may issue the following Decision and Order:

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## DECISION AND ORDER

1. INVALIDATION AND REVOCATION OF PHARMACY TECHNICIAN REGISTRATION - Pharmacy Technician Registration Number TCH 39716 issued to TERENCE SCOTT CLARK, is hereby permanently invalidated and revoked.

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## 2. SURRENDER OF LICENSE AFTER INVALIDATION - Upon the effective

date of permanent invalidation and revocation, Respondent shall surrender certificate of
registration and any and all other evidence of licensure, registration and certification to the
Board at its office located at 1625 North Market Boulevard, Suite N-219, Sacramento,
California, unless such has already occurred as a result of *People v. Terence Scott Clark*,
Sacramento Superior Court Case No. 04-F07484). Said registration and any other evidence of
licensor or registration shall be surrendered to a designated Bureau representative.

3. WAIVER OF COSTS - Costs as set forth in paragraph 12 are waived, except
in the event that Respondents, collectively or individually, apply at some future date for a
license issued by the Department of Consumer Affairs, such costs will be immediately due and
owing.

EFFECT OF STIPULATION - This Stipulation concludes all investigation
 and enforcement proceedings by the Board regarding the Respondent as to allegations contained
 in the Accusation.

IT IS FURTHER STIPULATED AND AGREED that the terms of this Stipulation shall be subject to the acceptance of the Board of Pharmacy, Department of Consumer Affairs. If the Board fails to adopt this Stipulation as the final decision in this matter, it shall be of no force or effect for either party, and the matter will be regularly set for hearing.

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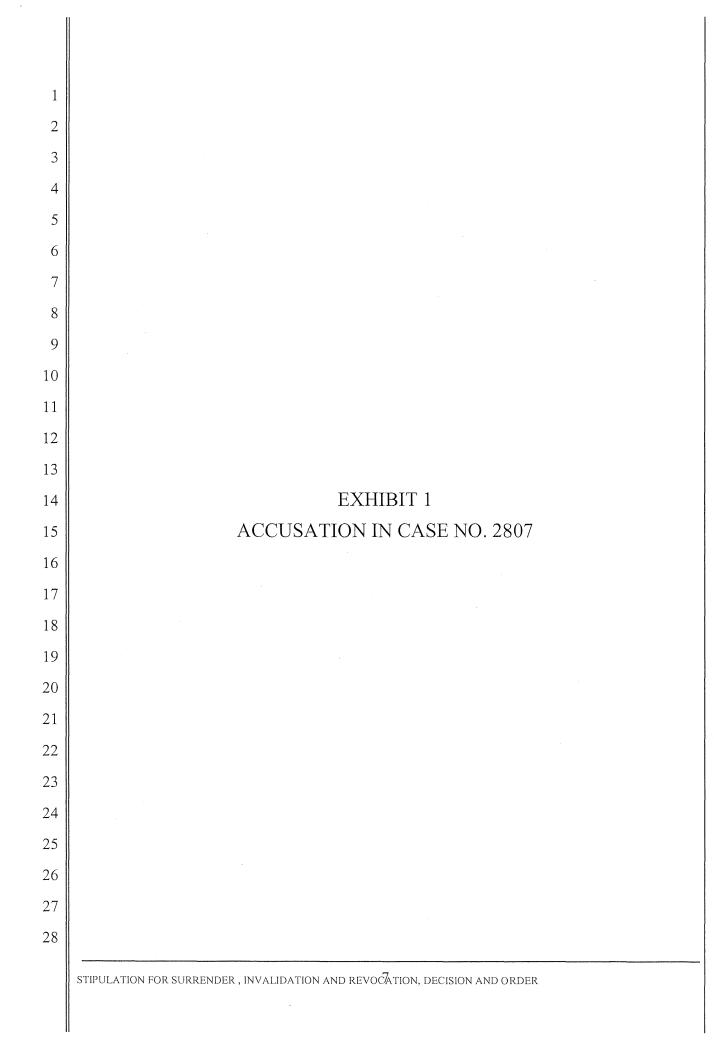
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1	ACCEPTANCE OF STIPULATION
2	I hereby state that I have read and that I understand this document. I understand that
3	have certain rights under the California Administrative Procedure Act and the laws and
4	regulations of the State of California in regard to this matter, and I knowingly and intelligently
5	waive those rights.
6	I agree that a signed facsimile (FAX) of this document shall be as binding as an original
7	signed copy. I fully understand all of, and agree to be bound by, the terms of this document.
8	Dated: 3-26-06
9	TERENCE SCOTT CLARK
10	
11	ACKNOWLEDGMENT
12	The foregoing Stipulation is respectfully submitted to the Board of Pharmacy,
13	Department of Consumer Affairs for consideration.
14	Dated: / MAACH 21, 2006
15 16	BILL LOCKYER, Attorney General of the State of California
17	By: Jacop Mille
18	ROBERT BROWNING MILLER Deputy Attorney General
19	Attorneys for Complainant
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	STIPULATION FOR SURRENDER , INVALIDATION AND REVOCTATION, DECISION AND ORDER

1	
2	ORDER
3	The above Stipulation has been adopted and shall become the Final Decision of the
4	Board of Pharmacy of the Department of Consumer Affairs of the State of California.
5	
6	This decision shall become effective on <u>June 30, 2006</u> .
7	It is so ORDERED on <u>May 31, 2006</u> .
8	BOARD OF PHARMACY
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
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11	2 Folder
12	By
13	Board President
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v		
1	BILL LOCKYER, Attorney General	
2	of the State of California PAUL V. BISHOP, State Bar No. 50133	
3	Deputy Attorney General California Department of Justice	
4	1300 I Street, Suite 125 P.O. Box 944255	
5	Sacramento, CA 94244-2550 Telephone: (916) 324-4618	
6	Facsimile: (916) 327-8643	
7	Attorneys for Complainant	
8		
9	BEFORE TH BOARD OF PHAN	
10	DEPARTMENT OF CONS STATE OF CALIE	UMER AFFAIRS
11		
12	In the Matter of the Accusation Against:	Case No. 2807
13	TERENCE SCOTT CLARK 7529 Guildwood Street	ACCUSATION
14	Sacramento, California 95822	
15	Pharmacy Technician Registration No. TCH 40302	
16	Respondent.	
17		
18	Complainant alleges:	•
19	PARTIES	
20		t") brings this Accusation solely in her
21	official capacity as the Executive Officer of the Board	of Pharmacy ("Board"), Department of
22	Consumer Affairs.	
23		e Board issued Pharmacy Technician
24	Registration Number TCH 40302 to Terence Scott Cla	
25	2004, in the criminal proceeding titled People v. Teren	
26	2004, No. 04-F07484), Respondent surrendered his ph	narmacy technician registration to the court
27	based upon an order pursuant to Penal Code section 23	3. Respondent's Pharmacy Technician

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Registration will expire on July 31, 2006, unless renewed.

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	1	STATUTORY PROVISIONS
	2	3. Business and Professions Code ("Bus. & Prof. Code") section 4202,
	3	subdivision (d), states that the Board may suspend or revoke a registration issued pursuant to this
	4	section on any ground specified in Section 4301.
	5	4. Bus. & Prof. Code section 4300 states, in pertinent part:
	6	(a) Every license issued may be suspended or revoked.
	7	(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:
	9	(1) Suspending judgment.
	10	(2) Placing him or her upon probation.
	11	(3) Suspending his or her right to practice for a period not exceeding one
	12	year.
	13	(4) Revoking his or her license.
	14	(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper
	15	5. Bus. & Prof. Code section 4301 states, in pertinent part:
	16	The board shall take action against any holder of a license who is guilty of
	17	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:
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	19	(1) The commission of any set involving we will be site in the little
	20	(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.
	21	as a needsee of otherwise, and whether the act is a felony of misdemeanor of not.
	22	
	23	(j) The violation of any of the statutes of this state or of the United States regulating controlled substances and dangerous drugs
	24	6. Bus. & Prof. Code section 4022 states:
	25	"Dangerous drug" or "dangerous device" means any drug or device unsafe
	26	for self-use in humans or animals, and includes the following:
	27	(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.
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1 (b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a -----," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to 2 use or order use of the device. 3 (c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006. 4 5 7. Bus. & Prof. Code section 118, subdivision (b), states: The suspension, expiration, or forfeiture by operation of law of a license 6 issued by a board in the department, or its suspension, forfeiture, or cancellation 7 by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to 8 institute or continue a disciplinary proceeding against the licensee upon any 9 ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground. 10 8. Health and Safety Code ("Health & Saf. Code") 11173, subdivision (a), 11 12 states: 13 No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for 14 controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact. 15 9. Health & Saf. Code section 11350, subdivision (a), states: 16 17 Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of 18 subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled 19 substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon 20the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison. 21 22 10. Health & Saf. Code section 11351 states: 23 Except as otherwise provided in this division, every person who possesses for sale or purchases for purposes of sale (1) any controlled substance specified in subdivision (b), (c), or (e) of Section 11054, specified in paragraph (14), (15), or 24 (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of 25 Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, 26 shall be punished by imprisonment in the state prison for two, three, or four years. 27 11. Health & Saf. Code section 11357, subdivision (b), states, in pertinent 28 part, that except as authorized by law, every person who possesses not more than 28.5 grams of

1	marijuana, other than concentrated cannabis, is guilty of a misdemeanor and shall be punished by
2	a fine of not more than one hundred dollars (\$100).
3	Cost Recovery
4	12. Bus. & Prof. Code section 125.3 states, in pertinent part, that the Board
5	may request the administrative law judge to direct a licentiate found to have committed a
6	violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
7	investigation and enforcement of the case.
8	<b>CONTROLLED SUBSTANCES/DANGEROUS DRUGS AT ISSUE</b>
9	13. "Vicodin", a combination drug containing hydrocodone 5 mg and APAP,
10	is a Schedule III controlled substance as designated by Health & Saf. Code section 11056,
11	subdivision (e)(4), and is a dangerous drug within the meaning of Bus. & Prof. Code section
12	4022 in that it is available by prescription only.
13	14. "Marijuana" is a Schedule I controlled substance as designated by Health
14	& Safety Code section 11054, subdivision (d)(13).
15	FACTUAL BACKGROUND
16	15. From approximately 2003 to August 2004, Respondent was employed as a
17	pharmacy technician at Broadway Long Term Care Pharmacy, Inc. (hereinafter "Broadway
18	Pharmacy"), located in Sacramento, California.
19	16. On or about July 9, 2004, David Carroll, Pharmacist-In-Charge of
20	Broadway Pharmacy, reported to the California Department of Justice (CA DOJ) that one or
21	more of their employees had stolen hydrocodone tablets from within the pharmacy.
22	17. From July 23, 2004, through August 3, 2004, CA DOJ, the California
23	Bureau of Narcotic Enforcement ("BNE"), and the U.S. Drug Enforcement Agency ("DEA")
24	conducted an investigation into the diversion of controlled substances from Broadway Pharmacy.
25	18. On August 3, 2004, representatives from DEA, BNE, and the California
26	Department of Health and Human Services interviewed Respondent. Respondent admitted that
27	he had stolen approximately 300 to 500 tablets of controlled substances, usually Vicodin, out of
28	the pharmacy three to four times per month over a one year period, including 30 Vicodin tablets
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1	in May 2004. Respondent also admitted that he assisted another pharmacy technician, Juan
2	Evans ("Evans"), in stealing hydrocodone in exchange for which he received marijuana.
3	Respondent stated that he and Evans worked together to steal Vicodin and that Respondent sold
4	the Vicodin to a female named "Betty" for cash. Respondent consented to a search of his
5	residence and was found in possession of eleven 7.5 tablets of hydrocodone and eleven grams of
6	marijuana. Respondent was subsequently charged with violating Health & Saf. Code sections
. 7	11351, 11173, subdivision (a), 11350, subdivision (a), and 11357, subdivision (b).
8	FIRST CAUSE FOR DISCIPLINE
9	(Violations of State Laws Regulating Controlled Substances)
10	19. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code
11	section 4301, subdivision (j), on the grounds of unprofessional conduct. On and between May 1,
12	2004, and August 3, 2004, while employed as a pharmacist technician at Broadway Pharmacy
13	located in Sacramento, California, Respondent violated the following state laws regulating
14	controlled substances:
15	a. Health & Saf. Code Section 11351: On and between May 1, 2004, and
16	July 30, 2004, Respondent unlawfully possessed for sale various quantities of hydrocodone, a
17	controlled substance.
18	b. Health & Saf. Code section 11173, subdivision (a): On and between
19	May 1, 2004, and July 30, 2004, Respondent unlawfully obtained and attempted to obtain
20	hydrocodone, a controlled substance, and procured and attempted to procure the administration
21	of and prescription for hydrocodone by fraud, deceit and misrepresentation.
22	c. <u>Health &amp; Saf. Code section 11350, subdivision (a)</u> : On or about August
23	3, 2004, Respondent unlawfully had in his possession hydrocodone, a controlled substance.
24	d. <u>Health &amp; Saf. Code section 11357, subdivision (b)</u> : On or about August
25	3, 2004, Respondent unlawfully possessed not more than 28.5 grams of marijuana.
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1	SECOND CAUSE FOR DISCIPLINE
2	(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)
3	20. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code
4	section 4301, subdivision (f), on the grounds of unprofessional conduct in that he committed acts
5	involving moral turpitude, dishonesty, fraud, deceit, or corruption as set forth in paragraph 21
6	above.
7	PRAYER
8	WHEREFORE, Complainant requests that a hearing be held on the matters herein
9	alleged, and that following the hearing, the Board of Pharmacy issue a decision:
10	1. Revoking or suspending Pharmacy Technician Registration Number
11	TCH 40302, issued to Terence Scott Clark;
12	2. Ordering Terence Scott Clark to pay the Board of Pharmacy the reasonable
13	costs of the investigation and enforcement of this case, pursuant to Business and Professions
14	Code section 125.3;
15	3. Taking such other and further action as deemed necessary and proper.
16	DATED: 12/13/04
17	
18	P. J. Harris
19	PATRICIA F. HARRIS Executive Officer
20	Board of Pharmacy
21	Department of Consumer Affairs State of California
22	Complainant
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24	
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27	03583110-SA2004103499
28	Accusation.wpd phd; 11/1/2004