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Attorney for Complainant

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

In the Matter of the Accusation Against:	Case No. 2848
BRYAN LEE BACON 249 Ridgetop Drive, #138 Redding, CA 96003 Pharmacist License No. RPH 37233, Respondent.	**STIPULATED SURRENDER 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. Patricia F. Harris ("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 Bill Lockyer, Attorney General of the State of California, by Arthur D. Taggart, Lead Supervising Deputy Attorney General.

2. Bryan Lee Bacon ("Respondent") is represented by Robert F. Hahn, Esq. of Gould & Hahn.

3. On or about August 27, 1982, the Board of Pharmacy issued Pharmacist License Number RPH 37233 to Respondent. The license was in full force and effect at all times

relevant to the charges brought in Accusation No. 2848, and will expire on July 31, 2006, unless renewed.

JURISDICTION

4. Accusation No. 2848 was filed before the Board of Pharmacy ("Board"), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on September 6, 2005. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 2848 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 2848. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

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

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

CULPABILITY

8. Respondent does not admit the violations charged in the Accusation. However, Respondent admits that Accusation No. 2848 sets forth legally valid causes for discipline and that said causes for discipline could be established by clear and convincing evidence at an administrative hearing. Respondent chooses to surrender his pharmacist license and hereby surrenders his Pharmacist License No. RPH 37233 for the Board's formal acceptance.

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

CONTINGENCY

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

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

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

ORDER

IT IS HEREBY ORDERED that Pharmacist License Number RHP 37233, issued to Respondent Bryan Lee Bacon, is surrendered and accepted by the Board of Pharmacy.

13. The surrender of Respondent's pharmacist license and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

14. Respondent shall lose all rights and privileges as a pharmacist in California as of the effective date of the Board's Decision and Order.

15. Respondent shall cause to be delivered to the Board both his wall and pocket license certificates on or before the effective date of the Decision and Order.

SURRENDER

16. Respondent surrenders Pharmacist License number RPH 37233 as of the effective date of this decision. Respondent shall relinquish his pocket license to the Board within ten (10) days of the effective date of this decision. Respondent may not reapply for any certification or license of the Board for three (3) years from the effective date of this decision. Respondent stipulates that should Respondent apply for any certification or license from the Board on or after the effective date of this decision, all allegations set forth in the accusation shall be deemed to be true upon re-application. Should Respondent apply for any new certification or license, Respondent will be subject to all terms and conditions for certification or licensure not previously satisfied.

Respondent shall meet all requirements applicable to that certification or license as of the date the application is submitted to the Board, including, but not limited to certification by a nationally recognized body prior to the issuance of a new registration.

Respondent stipulates that should he apply for any certification from the Board on or after the effective date of this decision that investigation and prosecution costs in the amount of $841.75 shall be paid to the Board prior to issuance of the certification or license.

17. Respondent shall not apply for licensure or petition for reinstatement for three (3) years from the effective date of the Board of Pharmacy's Decision and Order.

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ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacy License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 12-11-05.

BRYAN LEE BACON
Respondent

ACKNOWLEDGMENT

I have read and fully discussed with Respondent BRYAN LEE BACON the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 12-12-05.

ROBERT F. HAHN, ESQ.
Gould & Hahn
Attorney for Respondent

ENDORSEMENT

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

DATED: 12/12/05.

BILL LOCKYER, Attorney General
of the State of California

ARTHUR D. TAGGART
Lead Supervising Deputy Attorney General

Attorneys for Complainant

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

In the Matter of the Accusation Against: **BRYAN LEE BACON** 249 Ridgetop Drive, #138 Redding, CA 96003 Pharmacist License No. RPH 37233 Respondent.	Case No. 2004-42 2848

DECISION AND ORDER

The attached Stipulated Surrender of License and 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 March 24, 2006.

It is so ORDERED February 22, 2006.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

STANLEY W. GOLDENBERG
Board President

Exhibit A

Accusation No. 2848

BILL LOCKYER, Attorney General
of the State of California
ARTHUR D. TAGGART, State Bar No. 83047
Lead Supervising Deputy Attorney General
Attorneys for Complainant

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

In the Matter of the Accusation Against: **BRYAN LEE BACON** 249 Ridgetop Drive, #138 Redding, CA 96003 Pharmacist License No. RPH 37233 Respondent.	Case No. 2848 **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Patricia F. Harris ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy ("Board"), Department of Consumer Affairs.

2. On or about August 27, 1982, the Board issued Pharmacist License Number RPH 37233 to Bryan Lee Bacon ("Respondent"). On June 24, 2005, Respondent's Pharmacist License was automatically suspended by the Board for five (5) years pursuant to Business and Professions Code ("Code") section 4301.5, subdivision (a). Respondent's Pharmacist License will expire on July 31, 2006, unless renewed.

STATUTORY PROVISIONS

3. Code section 4300 states, in pertinent part:

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

(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:

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

4. Code section 4301 states, in pertinent part:

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.

. . . .

(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 . . .

Cost Recovery

5. Code section 125.3 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.

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FIRST CAUSE FOR DISCIPLINE

(Disciplinary Action by the Colorado State Board of Pharmacy)

6. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (n), on the grounds of unprofessional conduct. On or about June 22, 2004, pursuant to the Stipulation and Final Agency Order entered into between Respondent and the Colorado State Board of Pharmacy (hereinafter "the Colorado Board") in the disciplinary proceeding titled *In the Matter of Disciplinary Proceedings Regarding the License to Practice Pharmacy in the State of Colorado of Bryan L. Bacon, R.Ph., License No. 11280*, Case No. RG PH DLRAR, Respondent relinquished his license to practice pharmacy in the State of Colorado. Respondent agreed that said relinquishment shall have the full force and effect as a revocation ordered by the Colorado Board and that he may not reapply for licensure in that state for a minimum of five years. A true and correct copy of the Stipulation and Final Agency Order is attached hereto as Exhibit A and incorporated herein by reference.

7. Respondent admitted that, from approximately March 28, 2003, through April 26, 2003, Respondent, who was the Pharmacist Manager, diverted various prescription drugs, including controlled substances, from his place of employment. The diverted drugs included: approximately 100 clonidine tablets, approximately 30 Donnatal tablets, approximately 60 Fioricet tablets, approximately 30 Reglan tablets, approximately 4 ounces of Vi-Q-Tuss, and approximately 30 Hydrocodone 2.5/500 tablets.

SECOND CAUSE FOR DISCIPLINE

(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

8. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code section 4301, subdivision (f), on the grounds of unprofessional conduct in that he committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption as set forth in paragraph 7 above.

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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 37233, issued to Bryan Lee Bacon;

2. Ordering Bryan Lee Bacon 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: 8/31/05

P. F. Harris

PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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