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

11 In the Matter of the Accusation Against:

Case No. 2848

12 **BRYAN LEE BACON**
13 249 Ridgetop Drive, #138
Redding, CA 96003

STIPULATED SURRENDER
OF LICENSE AND ORDER

14 Pharmacist License No. RPH 37233,

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

20 **PARTIES**

21 1. Patricia F. Harris ("Complainant") is the Executive Officer of the Board of
22 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
23 by Bill Lockyer, Attorney General of the State of California, by Arthur D. Taggart, Lead
24 Supervising Deputy Attorney General.

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

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

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

3 **JURISDICTION**

4 4. Accusation No. 2848 was filed before the Board of Pharmacy ("Board"),
5 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
6 and all other statutorily required documents were properly served on Respondent on September
7 6, 2005. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of
8 Accusation No. 2848 is attached as exhibit A and incorporated herein by reference.

9 **ADVISEMENT AND WAIVERS**

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

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

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

22 **CULPABILITY**

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

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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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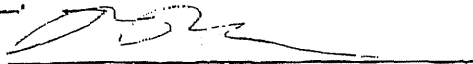
DEPARTMENT OF JUSTICE

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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

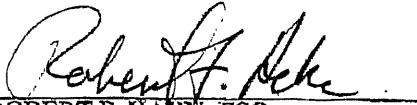


BRYAN LEE BACON
Respondent

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



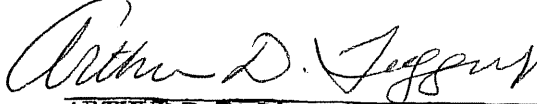
ROBERT F. HAHN, ESQ.
Gould & Hahn
Attorney for Respondent

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:

Case No. 2004-42
2848

BRYAN LEE BACON
249 Ridgetop Drive, #138
Redding, CA 96003

Pharmacist License No. RPH 37233

Respondent.

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

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

4 PATRICIA DAVIS
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10 **BEFORE THE**
11 **BOARD OF PHARMACY**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 2848

14 **BRYAN LEE BACON**
249 Ridgetop Drive, #138
15 Redding, CA 96003

A C C U S A T I O N

16 Pharmacist License No. RPH 37233

17 Respondent.

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19 Complainant alleges:

20 **PARTIES**

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

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

1 **STATUTORY PROVISIONS**

2 3. Code section 4300 states, in pertinent part:

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

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

6 (1) Suspending judgment.

7 (2) Placing him or her upon probation.

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

10 (4) Revoking his or her license.

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

12 4. Code section 4301 states, in pertinent part:

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

16

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

19

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

22 **Cost Recovery**

23 5. Code section 125.3 states, in pertinent part, that the Board may request the
24 administrative law judge to direct a licentiate found to have committed a violation or violations
25 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
26 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