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Attorneys for Complainant

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

In the Matter of the Accusation Against: KEVIN JAMES DEBAUN 2662 Montclair St. San Diego, CA 92104 Pharmacy Technician Registration No. TCH 45180 Respondent.	Case No. 2891 OAH No. L-2005120127 **STIPULATED SURRENDER OF LICENSE AND ORDER**

In the interest of a prompt and speedy resolution of this matter, consistent with the public interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs the parties hereby agree to the following Stipulated Surrender of License and Order which will be submitted to the Board for approval and adoption as the final disposition of the Accusation.

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 Diane De Kervor, Deputy Attorney General.

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2. Kevin James DeBaun (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about October 24, 2002, the Board of Pharmacy issued Pharmacy Technician Registration No. TCH 45180 to Kevin James DeBaun (Respondent). The Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 2891 and will expire on January 31, 2008, unless renewed.

JURISDICTION

4. Accusation No. 2891 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 1, 2005. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 2891 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. 2891. 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 admits the truth of each and every charge and allegation in Accusation No. 2891, agrees that cause exists for discipline and hereby surrenders his Pharmacy

Technician Registration No. TCH 45180 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 Pharmacy Technician Registration 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 surrender, 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 Pharmacy Technician Registration No. TCH 45180, issued to Respondent Kevin James DeBaun is surrendered and accepted by the Board of Pharmacy.

13. The surrender of Respondent's Pharmacy Technician Registration 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 Pharmacy Technician 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 Registration wall and pocket license certificate on or before the effective date of the Decision and Order.

16. Respondent understands and agrees that if he ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent may not apply for licensure for three years from the date of the Board's decision. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 2891 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.

17. Should Respondent ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other heath care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 2891 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

18. Respondent shall pay the Board its costs of investigation and enforcement in the amount of $4,000.00 prior to issuance of a new or reinstated license.

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 Technician Registration. 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: 3/30/2006.

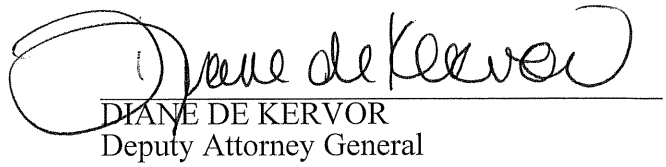
Kevin James DeBaun
Respondent

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: March 30, 2006.

BILL LOCKYER, Attorney General
of the State of California



DIANE DE KERVOR
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SD2005700656
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BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: KEVIN JAMES DEBAUN 2662 Montclair St. San Diego, CA 92104 Pharmacy Technician Registration No. TCH 45180 Respondent.	Case No. 2891 OAH No. L-2005120127

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 May 31, 2006.

It is so ORDERED May 1, 2006.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____
STANLEY W. GOLDENBERG
Board President

Exhibit A

Accusation No. 2891

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Attorneys for Complainant

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

In the Matter of the Accusation Against: KEVIN JAMES DEBAUN 638 West Manor Drive Chula Vista, CA 91910 Pharmacy Technician Registration No. TCH 45180 Respondent.	Case No. 2891 **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).

2. On or about October 24, 2002, the Board issued Pharmacy Technician Registration Number TCH 45180 to Kevin James Debaun (Respondent). The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2006, unless renewed.

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JURISDICTION

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

4. Section 4301 of the Code provides, in 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.

. . .

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

. . .

"(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of

guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence . . . ."

5. 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.

6. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

7. Section 490 of the Code provides, in part:

"A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere."

DRUGS

8. Methamphetamine is a dangerous drug pursuant to Code section 4022 and a controlled substance pursuant to Health and Safety Code section 11055(d)(2).

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime Substantially Related to Practice)

9. Respondent is subject to disciplinary action under Code sections 490 and 4301(l) in that he was convicted of crimes substantially related to the qualifications functions and duties of a pharmacy technician. The circumstances are as follows:

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/ / /

10. On or about March 8, 2005, in the Superior Court of California, County of San Diego, in case number CS 191362, entitled People v. Kevin James Debaun, respondent was convicted on his plea of guilty to one felony count of violating Health and Safety Code section 11377(a) (Possession of a Controlled Substance) and one misdemeanor count of violating Penal Code section 484 (Petty Theft).

11. The facts and circumstances underlying the convictions mentioned in the previous paragraph are as follows: On or about February 6, 2005, respondent possessed methamphetamine for his personal use and stole items from a department store.

SECOND CAUSE FOR DISCIPLINE

(Commission of an Act Involving Dishonesty)

12. Respondent is subject to disciplinary action under Code section 4301(f) in that, on or about February 6, 2005, he stole items from a department store.

THIRD CAUSE FOR DISCIPLINE

(Violation of Laws Relating to Controlled Substances and Dangerous Drugs)

13. Respondent is subject to disciplinary action under Code section 4301(j) in that he violated the following statutes and regulations regulating controlled substances and dangerous drugs:

a. Health and Safety Code section 11377(a): Respondent possessed controlled substances in violation of law.

b. Health and Safety Code section 11170: Respondent self-administered controlled substances in violation of law.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

14. Respondent is subject to disciplinary action under Code section 4301 in that he committed acts constituting unprofessional conduct as more particularly set forth above in paragraphs 9 through 13 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 issue a decision:

1. Revoking or suspending Pharmacy Technician Registration Number TCH 45180, issued to respondent.

2. Ordering respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3;

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

DATED: 8/23/05

P. F. Harris

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

SD2005700656