BILL LOCKYER, Attorney General
of the State of California
JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
California Department of Justice
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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: KIMIA KASHANIAN 569 Fillmore Street San Francisco, CA 94117 Pharmacy Intern Permit No. INT 13279 Respondent.	Case No. 2925 OAH No. **STIPULATED SURRENDER OF LICENSE AND ORDER**

In the interest of a prompt and speedy resolution of this matter, consistent with the public interest and responsibility of the Board of Pharmacy, 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 its approval and adoption as the final disposition of the Accusation.

PARTIES

1. Patricia F. Harris (Complainant), Executive Officer, Board of Pharmacy, brought this action solely in her official capacity and is represented herein by Bill Lockyer, Attorney General of the State of California, by Joshua A. Room, Deputy Attorney General.

2. Kimia Kashanian (Respondent) is represented in this proceeding by attorney Robert Diskint, whose address is Critchlow & Diskint LLP, 100 Drake's Landing Road, Suite 305, Greenbrae, CA 94904 (telephone (415) 925-1000).

3. On April 9, 2002, the Board of Pharmacy issued Pharmacy Intern Permit No. INT 13279 to Kimia Kashanian (Respondent). The Permit was canceled by the Board on April 12, 2005. The Permit expired on April 30, 2006 and has not been renewed.

JURISDICTION

4. Accusation No. 2925 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 December 21, 2005. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2925 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2925. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of her 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 her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her 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 understands that the charges and allegations in Accusation No. 2925, if proven at a hearing, constitute cause for imposing discipline upon her Pharmacy Intern Permit No. INT 13279.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline. Respondent hereby gives up her right to contest that cause for discipline exists.

10. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Permit without further process.

RESERVATION

11. The stipulations made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board of Pharmacy or other professional licensing agency is involved, and are not admissible in any other criminal or civil proceeding.

CONTINGENCY

12. 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 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 she may not withdraw her 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.

13. 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.

14. In consideration of the foregoing stipulations, the parties agree the Board may, without further notice or formal proceeding, issue the following Order:

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ORDER

IT IS HEREBY ORDERED that Pharmacy Intern Permit No. INT 13279, issued to Respondent Kimia Kashanian, is surrendered and accepted by the Board of Pharmacy.

15. The surrender of Respondent's Pharmacy Intern Permit 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.

16. Respondent shall lose all rights and privileges as an Intern Pharmacist in California as of the effective date of the Board's Decision and Order.

17. Respondent shall cause to be delivered to the Board both her wall License and pocket renewal certificate on or before the effective date of this Decision and Order.

18. Respondent may not apply or reapply for, or petition for reinstatement of, any license, permit, or registration from the Board for three (3) years from the effective date of this Decision and Order.

19. Respondent understands and agrees that if she 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 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. 2925 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition. Respondent is obligated to report this surrender as disciplinary action.

20. Respondent shall pay the Board its costs of investigation and enforcement in the amount of $5,128.00 prior to issuance of a new or reinstated license.

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Robert Diskint. I understand the stipulation and the effect it will have on my Pharmacy Intern Permit. 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: October 10 2006.

KIMIA KASHANIAN
Respondent

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

DATED: 10/25/06.

ROBERT DISKINT
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: 10/31/06.

BILL LOCKYER, Attorney General
of the State of California

JOSHUA A. ROOM
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: KIMIA KASHANIAN 569 Fillmore Street San Francisco, CA 94117 Pharmacy Intern Permit No. INT 13279 Respondent.	Case No. 2925 OAH No.

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 December 29, 2006.

It is so ORDERED November 29, 2006.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By William Powers
WILLIAM POWERS
Board President

Exhibit A

Accusation No. 2925

BILL LOCKYER, Attorney General
of the State of California
JOSHUA A. ROOM, State Bar No. 214663
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BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: KIMIA KASHANIAN 569 Fillmore Street San Francisco, CA 94117 Pharmacy Intern Permit No. INT 13279 Respondent.	Case No. 2925 OAH No. **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about April 9, 2002, the Board of Pharmacy issued Pharmacy Intern Permit Number INT 13279 to Kimia Kashanian (Respondent). The Permit was in full force and effect at all times relevant to the charges brought herein and is scheduled to expire on April 30, 2006, unless renewed. It was cancelled by the Board of Pharmacy on April 12, 2005.

JURISDICTION

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

4. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].

5. Section 4300(a) of the Code provides that every license issued by the Board may be suspended or revoked.

6. Section 118(b) of the Code provides, in pertinent part, 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. Section 4402(a) of the Code provides that any license that is not renewed within three years following its expiration may not be renewed, restored, or reinstated and shall be cancelled by operation of law at the end of the three-year period.

STATUTORY PROVISIONS

7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action against any holder of a license who is guilty of "unprofessional conduct," defined to include, but not be 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. . . .

. . .

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"(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board.

. . .

8. Section 490 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions or duties of the license.

9. California Code of Regulations, title 16, section 1770, states:

"For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare."

10. Section 4060 of the Code provides, in pertinent part, that no person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a certified nurse-midwife, a nurse practitioner, or a physician assistant.

11. Health and Safety Code section 11170 provides that no person shall prescribe, administer, or furnish a controlled substance for himself or herself.

12. Health and Safety Code section 11173, subdivision (a), provides that no person shall obtain or attempt to obtain controlled substances, or 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.

13. Health and Safety Code section 11377, in pertinent part, makes it unlawful for any person to possess any controlled substance classified in Schedule III, IV, or V, without a valid prescription from a physician, dentist, podiatrist, or veterinarian licensed in this state.

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

CONTROLLED SUBSTANCES / DANGEROUS DRUGS

15. Section 4021 of the Code states:

"'Controlled substance' means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code."

16. Section 4022 of the Code states, in pertinent part:

"'Dangerous drug' or 'dangerous device' means any drug or device unsafe for self-use, except veterinary drugs that are labeled as such, and includes the following:

"(a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing without prescription,' 'Rx only,' or words of similar import.

. . .

"(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."

17. **LSD (lysergic acid diethylamide)** is a Schedule I controlled substance as designated by Health and Safety Code section 11054(d)(12), and a dangerous drug as designated by Business and Professions Code section 4022. It is a hallucinogenic drug.

18. **Xanax®** is a brand name for **alprazolam**, a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(1) and a dangerous drug as designated by Business and Professions Code section 4022. It is a depressant drug.

19. **Valium®** is a brand name for **diazepam**, which is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(9) and a dangerous drug as designated by Business and Professions Code section 4022. It is a depressant drug.

20. **Vicodin®** is a brand name for a compound containing **hydrocodone**, a narcotic and Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4) and a dangerous drug as designated by Business and Professions Code section 4022.

FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

21. Respondent is subject to discipline under Code sections 4301(l) and/or 490 and/or California Code of Regulations, title 16, section 1770, in that on or about April 24, 1995, in a criminal proceeding titled *United States of America v. Kimia Kashanian*, Case No. CR 94-CR-50041-2FL in United States District Court for the Eastern District of Michigan, Respondent was convicted by plea of guilty of one count of violation of 21 U.S.C. § 844 (unlawful knowing or intentional possession of controlled substance), for possession of **LSD**,[1] a misdemeanor. The sentence imposed included ten (10) days incarceration (work release), treatment for substance abuse, a $5,000.00 fine, and a term of supervised probation of three (3) years.

SECOND CAUSE FOR DISCIPLINE

(Unlawful Possession of Controlled Substance)

22. Respondent is subject to disciplinary action under Code sections 4301(j) and/or 4301(o) in that Respondent, in or about February 2005, possessed, conspired to possess, and/or assisted in or abetted the possession of at least ten (10) tablets of **alprazolam**, a Schedule IV controlled substance, without a valid prescription, in violation of Code section 4060. The circumstances of Respondent's unlawful possession were as follows:

a. From in or about November 2004 to in or about February 2005, Respondent was employed by and serving a pharmacy intern rotation with Pharmaca Integrative Pharmacy, first at a location in San Francisco, California (PHY 46135) and then by the beginning of February 2005 at a location in Mill Valley, California (PHY 46017).

b. In or about February 2005, the Pharmacist in Charge (PIC) at the Mill Valley pharmacy identified discrepancies in the pharmacy's stock of **alprazolam**. An audit of acquisitions and dispositions for January and February verified a shortage of approximately 300 tablets of **alprazolam**, 100 tablets of **Valium**, and 500 tablets of generic **Vicodin**.

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1. Pertinent to this conviction, **LSD** is also on federal Schedule I, per 21 U.S.C. § 812(c).

c. The PIC subsequently monitored a particular bottle of **alprazolam**, containing 100 tablets, and noted that it disappeared without any record of disposition between approximately 5:00 p.m. on or about February 9, 2005, and 10:00 a.m. on or about February 11, 2005, during which time period Respondent was working and had access to the drug supplies.

d. In an interview with an investigator engaged by Pharmaca held on or about February 15, 2005, Respondent confirmed orally and in writing that sometime during her employment between February 8 and February 11, 2005, she had taken into her possession, secretly and without presenting a prescription, approximately ten (10) tablets of **alprazolam**. Respondent repeated that confession to a Board investigator on or about March 29, 2005.

THIRD CAUSE FOR DISCIPLINE

(Unlawful Possession of Controlled Substance)

23. Respondent is subject to disciplinary action under Code sections 4301(j) and/or 4301(o) in that Respondent, as described in paragraph 22 above, possessed, conspired to possess, and/or assisted in or abetted the possession of **alprazolam**, a Schedule IV controlled substance, without a valid prescription, in violation of Health and Safety Code section 11377.

FOURTH CAUSE FOR DISCIPLINE

(Obtaining Controlled Substance by Fraud or Deceit)

24. Respondent is subject to discipline under Code sections 4301(j) and/or 4301(o) in that Respondent, as described in paragraph 22 above, obtained a controlled substance by fraud, deceit, or subterfuge, in violation of Health and Safety Code section 11173(a).

FIFTH CAUSE FOR DISCIPLINE

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

25. Respondent is subject to discipline under Code section 4301(f) in that, as described in paragraph 22 above, Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption.

SIXTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

26. Respondent is subject to disciplinary action under section 4301 of the Code in that Respondent, by way of the conduct described in paragraph 22 above, engaged in "unprofessional conduct" not becoming the profession of pharmacy.

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:

A. Revoking or suspending Pharmacy Intern Permit Number INT 13279, issued to Kimia Kashanian (Respondent).

B. Ordering Respondent to pay the Board reasonable costs of investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

C. Taking such other and further action as is deemed necessary and proper.

DATED: 12/16/05

P. F. Harris

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

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