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

In the Matter of the Accusation Against:

Case No. 2946

Janice Renee Ducotey
7 Sir Andrew Ct
Chico, CA 95928

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

Pharmacist License No. RPH 53575

Respondent.

DECISION AND ORDER

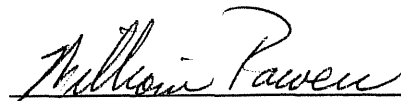
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy of the Department of Consumer Affairs, as its Decision in the above-entitled matter.

This decision shall become effective on June 20, 2007.

It is so ORDERED on May 21, 2007.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



WILLIAM POWERS
Board President

ORIGINAL

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
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7

8 Attorneys for Complainant

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

12 **In the Matter of the Accusation Against:**

Case No. 2946

13 **JANICE RENEE DUCOTEY**
7 Sir Andrew Court
14 Chico, California 95928

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 **Registered Pharmacist No. 53575**
Respondent.
16

17 In the order to resolve this matter prior to a hearing, and consistent with
18 maintaining the interests of the public as well as upholding the responsibilities of the Board of
19 Pharmacy of the Department of Consumer Affairs, State of California, the parties hereby agree to
20 the following Stipulated Settlement and Disciplinary Order which will be submitted to the Board
21 of Pharmacy for approval and adoption as the final disposition of the Accusation.

22 **PARTIES**

23 1. Virginia Herold ("Complainant") is Executive Officer of the Board of
24 Pharmacy, Department of Consumer Affairs, State of California. She brought this action solely
25 in her official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney
26 General of the State of California, through Robert Browning Miller, Deputy Attorney General.

27 2. Respondent Janice Renee Ducotey is representing herself in this
28 proceeding and has chosen not to exercise her right to be represented by counsel.

1 **RESERVATION**

2 10. **The admissions made by Respondent herein are only for the purposes**
3 **of this proceeding, or any other proceedings in which the Board of Pharmacy or other**
4 **professional licensing agencies of the Department of Consumer Affairs are involved, and**
5 **shall not be admissible in any other criminal or civil proceeding.**

6 **CONTINGENCY**

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

16 12. The parties understand and agree that facsimile copies of this Stipulated
17 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
18 force and effect as the originals.

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

22 **DISCIPLINARY ORDER**

23 **IT IS HEREBY ORDERED** that Registered Pharmacist License Number 53575,
24 issued to Janice Renee Ducotey is revoked, however, the revocation is immediately stayed and
25 the registered pharmacist license is placed on probationary status for a period of five (5) years
26 from the effective date of the Decision and Order. During the stayed period of revocation,
27 Registered Pharmacist License Number 53575 shall be suspended for the first thirty (30) days
28 thereof, during which time period Respondent may not be employed as a registered pharmacist.

1 During the remaining stayed period of revocation, Registered Pharmacist License Number 53575,
2 issued to Respondent, shall be placed on probationary status under the following terms and
3 conditions:

4 **Severability Clause** - Each term and condition of probation contained herein is a
5 separate and distinct term and condition. If any term or condition of this Order, or any
6 application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of
7 this Order, and all other applications thereof, shall not be affected. Each term and condition of
8 this Order shall separately be valid and enforceable to the fullest extent permitted by law.

9 1. **Actual Suspension.** - Respondent is suspended from the practice of
10 pharmacy for a period of thirty (30) days, beginning the effective date of this decision. During
11 the period of suspension, Respondent shall not enter any pharmacy prescription area or engage in
12 any pharmacy related service.

13 2. **Obey All Laws.** Respondent shall obey all state and federal laws and
14 regulations substantially related to or governing the practice of pharmacy.

15 3. **Reporting to the Board.** Respondent shall report to the Board or its
16 designee quarterly, either in person or in writing, as directed. The report shall state under penalty
17 of perjury whether there has been compliance with all the terms and conditions of probation and
18 shall include the name and address of the Respondent's employer. If the final probation report is
19 **not** made as directed, probation shall be extended automatically until such time as the final report
20 is made and accepted by the Board.

21 4. **Interview with the Board.** Upon receipt of reasonable notice,
22 Respondent shall appear in person for interviews with the Board upon request at various intervals
23 at a location to be determined by the Board. Failure to appear for a scheduled interview without
24 prior notification to Board staff shall be considered a violation of probation.

25 5. **Cooperation with Board Staff.** Respondent shall cooperate with the
26 Board's inspectional program and in the Board's monitoring and investigation of Respondent's
27 compliance with the terms and conditions of her probation. Failure to comply shall be
28 considered a violation of probation.

1 6. **Continuing Education.** Respondent shall provide evidence of
2 efforts to maintain skill and knowledge as a pharmacist as directed by the Board.

3 7. **Notice to Employers.** Respondent shall notify all present and prospective
4 employers of the decision in Case Number 2946 and the Terms, Conditions and Restrictions
5 imposed on Respondent by the Decision. Within 30 days of the effective date of this Decision,
6 and within 15 days of Respondent undertaking new employment, Respondent shall cause her
7 direct supervisor, pharmacists-in-charge and/or owner to report to the Board in writing
8 acknowledging the employer has read the Decision in Case Number 2946.

9 If Respondent works for or is employed by or through a pharmacy employment
10 service, Respondent must notify the direct supervisor, pharmacist-in-charge and/or owner at
11 every pharmacy of the Terms, Conditions and Restrictions of the Decision in Case Number 2946
12 in advance of the Respondent commencing work at each pharmacy.

13 "Employment" within the meaning of this provision shall include any full-time, part-time,
14 temporary or relief service or pharmacy management service as a pharmacy technician,
15 whether the Respondent is considered an employee or independent contractor.

16 8.. **No Preceptorships, Supervision of Interns, Being the**
17 **Pharmacist-in-Charge (PIC), or Serving as a Consultant.** Respondent shall not supervise any
18 intern pharmacist or perform any duties of a preceptor, nor shall Respondent be the pharmacist-
19 in-charge of any entity licensed by the Board unless otherwise specified in the Order.

20 9. **Reimbursement of Board Costs.** Respondent shall pay to the Board its
21 costs of investigation and prosecution in the amount of \$11,100. Respondent shall make said
22 payments as follows: Payments shall be made on a quarterly basis during the term of probation.

23 The filing of bankruptcy by Respondent shall not relieve Respondent of her
24 responsibility to reimburse the Board its costs of investigation and prosecution.

25 10. **Probation Monitoring Costs.** Respondent shall pay the costs associated
26 with probation monitoring as determined by the Board each and every year of probation. Such
27 costs shall be payable to the Board at the end of each year of probation. Failure to pay such costs
28 shall be considered a violation of probation.

1 11. **Status of License.** Respondent shall, at all times while on probation,
2 maintain an active registration with the Board, including any period during which suspension or
3 probation is tolled.

4 If Respondent's registered pharmacist's license expires or is canceled by operation
5 of law or otherwise, upon renewal or re-application, Respondent's license shall be subject to all
6 Terms, Conditions and Restrictions of this probation not previously satisfied.

7 12. **License Surrender While on Probation/Suspension.** Following the
8 effective date of this decision, should Respondent cease practice due to retirement or health, or
9 be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender her
10 license to the Board for surrender. The Board shall have the discretion whether to grant the
11 request for surrender or take any other action it deems appropriate and reasonable. Upon formal
12 acceptance of the surrender of the license, Respondent will no longer be subject to the terms and
13 conditions of probation.

14 Upon acceptance of the surrender, Respondent shall relinquish her pocket license
15 to the Board within 10 days of notification by the Board that the surrender is accepted.
16 Respondent may not reapply for any license from the Board for three years from the effective
17 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
18 of the date the application for that license is submitted to the Board.

19 13. **Notification of Employment/Mailing Address Change.** Respondent
20 shall notify the Board in writing within 10 days of any change of employment. Said notification
21 shall include the reasons for leaving and/or the address of the new employer, supervisor or owner
22 and work schedule, if known. Respondent shall notify the Board in writing within 10 days of a
23 change in name, mailing address or phone number.

24 14. **Tolling of Probation.** Should Respondent, regardless of residency, for
25 any reason cease practicing pharmacy for a minimum of 40 hours per calendar month in
26 California, Respondent must notify the Board in writing within 10 days of cessation of the
27 practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time shall
28 not apply to the reduction of the probation period. It is a violation of probation for Respondent's

1 probation to remain tolled pursuant to the provisions of this condition for a period exceeding
2 three years.

3 **Respondent shall work at least 40 hours in each calendar month as a**
4 **pharmacist and at least an average of 80 hours per month in any six consecutive months.**
5 **Failure to do so will be a violation of probation. If Respondent has not complied with this**
6 **condition during the probationary term, and Respondent has presented sufficient**
7 **documentation of her good faith efforts to comply with this condition, and if no other**
8 **conditions have been violated, the Board, in its discretion, may grant an extension of**
9 **Respondent's probation period up to one year without further hearing in order to comply**
10 **with this condition.**

11 **15. Tolling of Suspension.** If Respondent leaves California to reside or
12 practice outside this state, for any period exceeding 10 days (including vacation), Respondent
13 must notify the Board in writing of the dates of departure and return. Periods of residency or
14 practice outside the state - or any absence exceeding a period of 10 days shall not apply to the
15 reduction of the suspension period.

16 Respondent shall not practice pharmacy upon returning to this state until notified
17 by the Board that the period of suspension has been completed.

18 **16. Violation of Probation.** If Respondent violates probation in any
19 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke
20 probation and carry out the disciplinary order which was stayed. If a petition to revoke probation
21 or an accusation is filed against Respondent during probation, the Board shall have continuing
22 jurisdiction, and the period of probation shall be extended, until the petition to revoke probation
23 or accusation is heard and decided.

24 If Respondent has not complied with any term or condition of probation, the
25 Board shall have continuing jurisdiction over Respondent, and probation shall automatically be
26 extended until all terms and conditions have been satisfied or the Board has taken other action as
27 deemed appropriate to treat the failure to comply as a violation of probation, to terminate
28 probation, and to impose the penalty which was stayed.

1 17. **Rehabilitation Program - Pharmacists Recovery Program (PRP).**

2 Within 30 days of the effective date of this decision, Respondent shall contact the Pharmacists
3 Recovery Program for evaluation and shall successfully participate in and complete the treatment
4 contract and any subsequent addendums as recommended and provided by the PRP and as
5 approved by the Board. The costs for PRP participation shall be borne by the Respondent.

6 If Respondent is currently enrolled in the PRP, said participation is now
7 mandatory and is no longer considered a self-referral under Business and Professions Code
8 section 4363, as of the effective date of this decision. Respondent shall successfully participate
9 in and complete her current contract and any subsequent addendums with the PRP. Probation
10 shall be automatically extended until Respondent successfully completes her treatment contract.
11 Any person terminated from the program shall be automatically suspended upon notice by the
12 Board. Respondent may not resume the practice of pharmacy until notified by the Board in
13 writing. The Board shall retain jurisdiction to institute action to terminate probation for any
14 violation of this term.

15 18. **Random Drug Screening.** Respondent, at her own expense, shall
16 participate in random testing, including but not limited to biological fluid testing (urine, blood),
17 breathalyzer, hair follicle testing, or a drug screening program approved by the Board. The
18 length of time shall be for the entire probation period and the frequency of testing will be
19 determined by the Board. At all times Respondent shall fully cooperate with the Board, and
20 shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics,
21 hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as
22 directed shall constitute a violation of probation. Any confirmed positive drug test shall result in
23 the immediate suspension of practice by Respondent. Respondent may not resume the practice
24 of pharmacy until notified by the Board in writing.

25 19. **Abstain from Drugs and Alcohol Use.** Respondent shall completely
26 abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their
27 associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner
28 as part of a documented medical treatment. Upon request of the Board, Respondent shall provide

1 documentation from the licensed practitioner that the prescription was legitimately issued and is
2 a necessary part of the treatment of the Respondent.

3 20. **Supervised Practice.** Respondent shall practice only under the
4 supervision of a pharmacist not on probation with the Board. Respondent shall not practice until
5 the supervisor is approved by the Board. The supervision shall be, as required by the Board,
6 either:

- 7 Continuous - 75% to 100% of a work week
- 8 Substantial - At least 50% of a work week
- 9 Partial - At least 25% of a work week
- Daily Review - Supervisor's review of probationer's daily activities within 24
 hours

10 Within 30 days of the effective date of this decision, Respondent shall have her
11 supervisor submit notification to the Board in writing stating the supervisor has read the Decision
12 in Case Number 2946 and is familiar with the level of supervision as determined by the Board.

13 If Respondent changes employment, Respondent shall have her new supervisor,
14 within 15 days after employment commences, submit notification to the Board in writing stating
15 the direct supervisor and pharmacist-in-charge have read the Decision in Case Number 2946 and
16 is familiar with the level of supervision as determined by the Board.

17 Within 10, days of leaving employment, Respondent shall notify the Board in
18 writing.

19 21. **No Ownership of Licensed Premises.** Respondent shall not own,
20 have any legal or beneficial interest in, or serve as a manager, administrator, member, officer,
21 director, associate, or partner of any business, firm, partnership, or corporation currently or
22 hereinafter licensed by the Board. Respondent shall sell or transfer any legal or beneficial
23 interest in any entity licensed by the Board within 90 days following the effective date of this
24 decision and shall immediately thereafter provide written proof thereof to the Board.

25 22. **Completion of Probation.** Upon successful completion of probation,
26 Respondent's license will be fully restored.

27 ACCEPTANCE

28 I have carefully read the Stipulated Settlement and Disciplinary Order. I

1 understand the terms of the Stipulated Settlement and Disciplinary Order and the effect such
2 terms will have on my Registered Pharmacist License Number 53575. I enter into this Stipulated
3 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
4 bound by the Decision and Order of the Board of Pharmacy.

5 DATED: 4/1/07.

6
7 

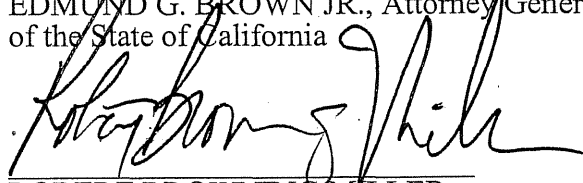
JANICE RENEE DUCOTÉY, Respondent

8
9 ENDORSEMENT

10 The foregoing Stipulated Settlement and Disciplinary Order is hereby
11 respectfully submitted for consideration by the Board of Pharmacy of the Department of
12 Consumer Affairs.

13 DATED: MARCH 7, 2007

14
15 EDMUND G. BROWN JR., Attorney General
of the State of California

16
17 

18 ROBERT BROWNING MILLER
19 Deputy Attorney General
Attorneys for Complainant

COPY

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7 Attorneys for Complainant

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

12 **In the Matter of the Accusation Against:**

Case No. 2946

13 **JANICE RENEE DUCOTEY**
7 Sir Andrew Court
Chico, California 95928

ACCUSATION

14 **Registered Pharmacist No. 53575**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Virginia Herold ("Complainant") brings this Accusation solely in her
19 official capacity as the Interim Executive Officer of the Board of Pharmacy, Department of
20 Consumer Affairs, State of California.

21 2. On or about August 30, 2002, the California Board of Pharmacy ("Board")
22 issued Registered Pharmacist License Number 53575 to Janice Renee Ducotey ("Respondent").
23 Respondent's registration will expire on July 31, 2008, unless renewed.

24 **STATUTORY PROVISIONS**

25 3. Section 118, subdivision (b), of the Business and Professions Code
26 (at all times hereinafter referred to as the "Code") provides:

27 "(b) The suspension, expiration, or forfeiture by operation
28 of law of a license issued by a board in the department, or its
suspension, forfeiture, or cancellation by order of the board or by

1 order of a court of law, or its surrender without the written consent
2 of the board, shall not, during any period in which it may be
3 renewed, restored, reissued, or reinstated, deprive the board of its
4 authority to institute or continue a disciplinary proceeding against
the licensee upon any 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."

5 4. Section 477, subdivision (b), of the Code provides:

6 "(b) 'License' includes certificate, registration or other
7 means to engage in a business or profession regulated by this
code."

8 5. Section 490 of the Code provides:

9 "A board may suspend or revoke a license on the ground
10 that the licensee has been convicted of a crime, if the crime is
11 substantially related to the qualifications, functions, or duties of the
12 business or profession for which the license was issued. A
13 conviction within the meaning of this section means a plea or
14 verdict of guilty or a conviction following a plea of nolo
15 contendere. Any action which a board is permitted to take
16 following the establishment of a conviction may be taken when the
17 time for appeal has elapsed, or the judgment of conviction has been
18 affirmed on appeal, or when an order granting probation is made
19 suspending the imposition of sentence, irrespective of a subsequent
20 order under the provisions of Section 1203.4 of the Penal Code."

21 6. Section 4022 of the Code provides, in pertinent part:

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

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

28 (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."

7. Section 4026 of the Code provides that the term "furnish"
means to supply by any means, by sale or otherwise.

8. Section 4059, subdivision (a), of the Code provides:

"(a) A person may not furnish any dangerous drug, except
upon the prescription of a physician, dentist, podiatrist,
optometrist, or veterinarian. A person may not furnish any
dangerous device, except upon the prescription of a physician,
dentist, podiatrist, optometrist, or veterinarian."

1 9. Section 4060 of the Code provides:

2 "No person shall possess any controlled substance, except
3 that furnished to a person upon the prescription of a physician,
4 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
5 pursuant to Section 3640.7, or furnished pursuant to a drug order
6 issued by a certified nurse-midwife pursuant to Section 2746.51, a
7 nurse practitioner pursuant to Section 2836.1, or a physician
8 assistant pursuant to Section 3502.1 or a pharmacist pursuant to
9 either subparagraph (D) of paragraph (4) of , or clause (iv) of
10 subparagraph (A) of paragraph (5) of, or subdivision (a) of Section
11 4052. This section shall not apply to the possession of any
12 controlled substance by a manufacturer, wholesaler, pharmacy,
13 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian,
14 naturopathic doctor, certified nurse-midwife, nurse practitioner, or
15 physician assistant, when in stock in containers correctly labeled
16 with the name and address of the supplier or producer."

17 10. Section 4300 of the Code provides, in pertinent part:

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

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

23 (1) Suspending judgment.

24 (2) Placing him or her upon probation.

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

27 (4) Revoking his or her license.

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

 11. Section 4301 of Code provides, 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.

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

1
2 (h) The administering to oneself, of any controlled
3 substance, or the use of any dangerous drug or of alcoholic
4 beverages to the extent or in a manner as to be dangerous or
5 injurious to oneself, to a person holding a license under this
6 chapter, or to any other person or to the public, or to the extent that
7 the use impairs the ability of the person to conduct with safety to
8 the public the practice authorized by the license.

9 (k) The conviction of more than one misdemeanor or any
10 felony involving the use, consumption, or self-administration of
11 any dangerous drug or alcoholic beverage, or any combination of
12 those substances.

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

18 12. Section 4369, subdivision (b), of the Code provides:

19 "(b) Participation in the pharmacists recovery program
20 shall not be a defense to any disciplinary action that may be taken
21 by the board."

22 13. Health and Safety Code section 11170 provides:

23 "No person shall prescribe, administer, or furnish a
24 controlled substance for himself."

25 14. Health and Safety Code section 11350, subdivision (a), provides:

26 "(a) Except as otherwise provided in this division, every
27 person who possesses (1) any controlled substance specified in
28 subdivision (b) or (c), or paragraph (1) of subdivision (f) of Section
11054, specified in paragraph (14), (15), or (20) of 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 substance classified in Schedule III, IV, or V which
is a narcotic drug, unless upon the written prescription of a
physician, dentist, podiatrist, or veterinarian licensed to practice in
this state, shall be punished by imprisonment in the state prison."

15. Health and Safety Code section 11377, subdivision (a),
provides:

"(a) 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."

1 16. Vehicle Code section 23152(b) provides:

2 "It is unlawful for any person who has 0.08 percent, by
3 weight, of alcohol in his or her blood to drive a vehicle. In any
4 prosecution under this subdivision, it is a rebuttable presumption
5 that the person has 0.08 percent or more, by weight, of alcohol in
6 his or her blood at the time of driving the vehicle if the person had
7 0.08 percent or more, by weight, of alcohol in his or her blood at
8 the time of the performance of a chemical test within three hours
9 after the driving.."

10 17. California Code of Regulations, Title 16, section 1770

11 provides:

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

21 Cost Recovery

22 18. Code section 125.3 provides that the Board may request the administrative
23 law judge to direct a licentiate found to have committed a violation or violations of the licensing
24 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
25 case.

26 Dangerous Dugs/Controlled Substances

27 19. "Wellbutrin," whose generic name is "Bupropion" and which is prescribed
28 for the treatment of depression, is a dangerous drug within the meaning of Code section 4022.

19 20. "Zolpidem," is a Schedule IV controlled substance as designated by Health
20 and Safety Code section 11507, subdivision (d)(32), and a dangerous drug within the meaning of
21 Code section 4022.

22 21. "Clonazepam," is a Schedule IV controlled substance as designated by
23 Health and Safety Code section 11057, subdivision (d)(7), and a dangerous drug within the
24 meaning of Code section 4022.

25 ///

1 had taken the Schedule IV controlled substance.

2 30. On July 9, 2004, Respondent gave a hand-written statement to a
3 Walgreens Loss Prevention Investigator and a Walgreens District Manager wherein she described
4 her diversion of Schedule IV controlled substances and the drugs Wellbutrin and Lexapro.

5 31. Respondent resigned her position as a staff pharmacist with Walgreens
6 on or about July 15, 2004.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Commission of an Act Involving Moral Turpitude,**

9 **Dishonesty, Fraud, Deceit, or Corruption)**

10 32. Respondent's license as a registered pharmacist is subject to disciplinary
11 action under Code section 4301, subdivision (f), for acts of unprofessional conduct in that she
12 conducted acts involving moral turpitude, dishonesty, fraud, deceit, or corruption. Specifically,
13 on multiple occasions between March, 2004 and July 5, 2004, Respondent, while on duty as a
14 staff pharmacist at Walgreens, dishonestly and fraudulently appropriated to herself the Schedule
15 IV controlled substances Alprazolam, Clonazepam, Lorazepam and Zolpidem, as well as the
16 substances Wellbutrin and Lexapro, which substances are dangerous drugs within the meaning of
17 Sections 4022 and 4059, subdivision (a), of the Code.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Unlawful Possession of Controlled Substances)**

20 33. Respondent's license as a registered pharmacist is subject to disciplinary
21 action under Code section 4301, subdivision (j), for acts of unprofessional conduct in that she
22 unlawfully possessed Schedule IV controlled substances and dangerous drugs in violation of
23 Health and Safety Code section 11170, Code section 4060 and/or Health and Safety Code section
24 11377, subdivision (a). Specifically, on multiple occasions between March, 2004 and July 5,
25 2004, Respondent, while on duty as a staff pharmacist at Walgreens unlawfully possessed the
26 Schedule IV controlled substances Alprazolam, Clonazepam, Lorazepam and Zolpidem.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unlawful Self-Administration of Controlled Substances)**

3 34. Respondent's license as a registered pharmacist is subject to disciplinary
4 action under Code section 4301, subdivision (h), for acts of unprofessional conduct in that she
5 unlawfully self-administered Schedule IV controlled substances in violation of Health and Safety
6 Code section 11170. Specifically, on multiple occasions between March, 2004 and July 5, 2004,
7 Respondent unlawfully self-administered the Schedule IV controlled substances Alprazolam,
8 Clonazepam, Lorazepam and Zolpidem.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Violating Laws and Rules Governing Pharmacy)**

11 35. Respondent's registration is subject to disciplinary action under Code
12 section 4301, subdivision (o), for acts of unprofessional conduct in that she violated or attempted
13 to violate, directly or indirectly, the provisions or terms of the Pharmacy Law (Business and
14 Professions Code section 4000 et seq.) or applicable federal and state laws governing pharmacy,
15 including those regulations established by the Board, as forth in Paragraphs 23 through 32 above.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 **(Conviction of Crime)**

18 36. Respondent's registration is subject to disciplinary action under Code
19 section 4301, subdivision (k), as related to Vehicle Code section 23152, subdivision (b), for acts
20 of unprofessional conduct involving moral turpitude, fraud, dishonesty, and corruption.
21 Specifically, Respondent was convicted on May 10, 2005, of violating Vehicle Code section
22 23152, subdivision (b) (a misdemeanor). The conduct for which Respondent was convicted is
23 substantially related to the qualifications, functions or duties of a licensed pharmacist, within the
24 meaning of California Code of Regulations, title 16, section 1770, in that the conviction
25 evidences a present or potential unfitness on the part of Respondent to perform the functions
26 authorized by that license in a manner consistent with the public health, safety, or welfare.

27 37. On January 29, 2005, Respondent was arrested by an officer of the Chico
28 Police Department for driving a motor vehicle while under the influence of alcohol, in violation

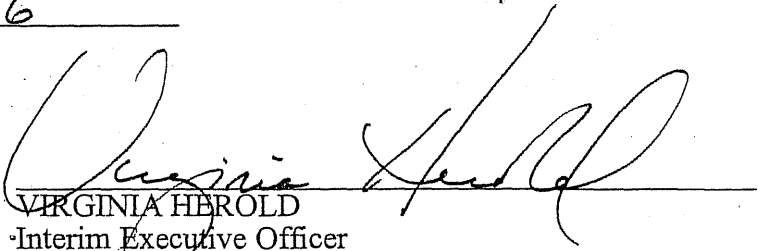
1 of Vehicle Code section 23152, subdivision (b). On May 10, 2005, Respondent entered a plea of
2 nolo contendere to violating Vehicle Code section 234152(b), in the case if The People of the
3 State of California vs Ducotey, Janice Renee, Butte County Superior Court Case No. SCR 48720.

4 **PRAYER**

5 **WHEREFORE**, Complainant requests that a hearing be held on the matters
6 herein alleged, and that following the hearing the Board issue a decision:

- 7 1. Revoking or suspending Registered Pharmacist License Number 52575 to
8 Janice Renee Ducotey;
- 9 2. Ordering Janice Renee Ducotey to pay the reasonable costs incurred by the
10 Board in the investigation and enforcement of this case pursuant to Code section 125.3; and,
- 11 3. Taking such other and further action as deemed necessary and proper.

12 **DATED:** 9/1/06

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16 VIRGINIA HEROLD
17 Interim Executive Officer
18 Board of Pharmacy
19 Department of Consumer Affairs
20 State of California
21 Complainant
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