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

In the Matter of the Accusation And Petition to Revoke Probation Against: **STEVEN MICHAEL LAVERING** 2296 Galice Rd. Merlin, CA 97532 Pharmacy License RPH 35050 Respondent.	Case No. 3023 **STIPULATED SURRENDER OF LICENSE AND ORDER**

DECISION AND ORDER

The attached Stipulated Surrender of Pharmacist License No. RPH 35050 issued to Steven Michael Lavering 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 28, 2007.

It is so ORDERED February 26, 2007.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By William Powers
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Board President

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Attorneys for Complainant

BEFORE THE
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In the Matter of the Accusation And Petition To Revoke Probation Against: **STEVEN MICHAEL LAVERING** 2296 Galice Rd. Merlin, CA 97532 Pharmacy License RPH 35050 Respondent.	Case No. 3023 **STIPULATED SURRENDER AND ORDER**

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

PARTIES

1. Virginia K. Herold (Complainant) is the Interim Executive Officer of the Board of Pharmacy (Board). 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 Jessica M. Amgwerd, Deputy Attorney General.

2. Steven Michael Lavering (Respondent) is unrepresented by counsel.

3. On or about December 11, 1979, the Board issued Pharmacist License No. RPH 35050 to Respondent. On May 19, 2000, the Board filed Accusation No. 2292 against Respondent based upon his self-administering, without legal authorization, 27.47 grams of

cocaine powder from Black Oak Pharmacy, in Oregon, where he was employed. The matter was settled, effectively April 28, 2001, and part of the terms and conditions included revocation, stayed, and probation to run concurrently with the discipline of his Oregon license.

JURISDICTION

4. Accusation and Petition To Revoke Probation No. 3023 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, on September 7, 2006, and is currently pending against Respondent. The Accusation and Petition To Revoke Probation and all other statutorily required documents were properly served on Respondent on September 14, 2006. Respondent filed his Notice of Defense contesting the Accusation and Petition To Revoke Probation. A copy of Accusation and Petition To Revoke Probation No. 3023 (also referred to as Case No. 3023) 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 and Petition To Revoke Probation No. 3023. 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 and Petition To Revoke Probation; 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.

8. This settlement shall be for the purposes of this proceedings, any future proceedings before the parties and any other actions taken by or before any governmental agency responsible for licensing, and shall not be used for any civil or criminal proceedings.

CULPABILITY

9 Respondent admits that while he was on probation, he violated Business and Professions Code sections 4301, subdivision (j) [violation of federal and state law], 4301, subdivision (n) [out-of-state-discipline], and 4300, subdivision (d) [violation of laws and regulations], based upon the following conduct in June 2003, while working as a pharmacist at McLaine's Drug Center, in Grants Pass, Oregon:

a. Respondent gave a pharmacy technician approximately ten (10) Android (methyltestoterone) capsules, a schedule III controlled substance, without a prescription.

Respondent agrees that cause exists for discipline of his Pharmacist License No. RPH 35050.

10. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Pharmacist License No. RPH 35050 without further process.

RESERVATION

11. The admissions 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 shall not be 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 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 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 agree that facsimile copies to this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as original Stipulated Settlement and Disciplinary Order and signatures.

14. 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 No. RPH 35050, issued to Steven Michael Lavering is surrendered and accepted by the Board of Pharmacy.

15. The surrender of Respondent's pharmacy 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.

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

17. 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 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 and Petition to Revoke No. 3023 shall be deemed to be true, correct, and admitted by Respondent when the Board determines whether to grant or deny the application or petition.

18. Upon application for a new license or a petition for reinstatement, Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of One Thousand Two Hundred Twenty Four Dollars and Fifty Cents ($1,224.50).

19. 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 and Petition To Revoke, No. 3023 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.

20. 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.

ACCEPTANCE

I, Steven Michael Lavering have carefully read the above Stipulated Surrender of License and entered into this agreement freely and voluntarily with full knowledge of its force and effect, do hereby surrender my vocational nurse license to the Board of Pharmacy, Department of Consumer Affairs, State of California, for its formal acceptance. By signing this Stipulated Surrender of License I recognize that upon its formal acceptance by the Board I will lose all rights and privileges to practice as a pharmacist in the State of California and I will also cause to be delivered to the Board both my license and wallet certificate before the effective date of the decision.

I further agree that a facsimile copy of this Stipulated Surrender of License and Order including facsimile copies of signatures, may be used with the same force and effect as the originals.

DATED: 1-13-07

STEVEN MICHAEL LAVERING
Pharmacist License No. RPH 35050
Respondent

ENDORSEMENT

The foregoing Surrender of license is respectfully submitted for consideration by the Board of Pharmacy, Department of Consumer Affairs.

DATED: January 22, 2007

BILL LOCKYER, Attorney General
of the State of California

By: Jessica M Amgwerd
JESSICA M. AMGWERD
Deputy Attorney General
Attorneys for Complainant

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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: **STEVEN MICHAEL LAVERING** 2296 Galice Rd. Merlin, CA 97532 Pharmacy License RPH 35050 Respondent.	Case No. 3023 **ACCUSATION AND PETITION TO REVOKE PROBATION**

Complainant alleges:

1. Virginia K. Herold ("Complainant") brings this Accusation and Petition To Revoke Probation solely in her official capacity as the Interim Executive Officer of the Board of Pharmacy ("Board"), Department of Consumer Affairs.

I.

LICENSE HISTORY

2. On December 11, 1979, the Board issued Pharmacist License RPH No. 35050 to Respondent Steven Michael Lavering (Respondent), to practice pharmacy in California. Respondent's license will expire on May 31, 2008, unless renewed.

3. Respondent also holds a pharmacist license from Oregon (license No. 8544) and Nevada (license No. 7629), permitting him to practice pharmacy in said states. Respondent's Oregon and Nevada licenses are currently in a probationary status.

4. From circa April 13, 1996 and April 17, 1996, while working as a pharmacist in the Black Oak Pharmacy, located in Oregon, Respondent self-administered, without legal authorization, of 27.47 grams of cocaine powder which he took from the Black Oak Pharmacy. Due to Respondent's conduct, the Board of Pharmacy of the State of Oregon ("Oregon Board") filed a Notice of Proposed Disciplinary Action (Case No. 96-0033) on December 19, 1996. Thereafter, the Oregon Board and Respondent entered into a settlement (Consent Order), placing Respondent's Oregon license on probation for ten years.

5. On or about May 19, 2000, the Board filed Accusation No. 2292 against Respondent, based on his self-administering, without legal authorization, of 27.47 grams of cocaine powder from Black Oak Pharmacy, located in Oregon. On March 29, 2001, the Board adopted a Stipulation whereby Respondent admitted to the allegations in Accusation No. 2292. The effective date of the Stipulation was April 28, 2001. As part of the terms and conditions in the Stipulation, Respondent's license was revoked, the revocation, however, was stayed and Respondent was placed on a probation in California to run concurrently with the discipline of his Oregon license.

II.

STATUTORY PROVISIONS

6. Under Business and Professions Code ("Bus. & Prof. Code") section 4300 the Board may discipline any license, for any reason provided in the Pharmacy Law, (i.e., Bus. & Prof. Code section 4000 *et. seq.*) Bus. & Prof. Code section 4300 (d), states the following:

> (d) The board may initiate disciplinary proceedings to revoke or suspend any probationary certificate of licensure for any violation of the terms and conditions of probation. Upon satisfactory completion of probation, the board shall convert the probationary certificate to a regular certificate, free of conditions.

7. The disciplinary conditions of probation of pharmacist are set forth in the California Code of Regulations, title 16, section 1773.

8. Bus. & Prof. Code section 118, subdivision (b), states:

> The suspension, expiration, or forfeiture by operation 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 order of a court of law, or its

surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its 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

9. Bus. & Prof. Code section 4300(j) and (n), state as follows:

§ 4301. Unprofessional conduct; licenses procured through misrepresentation, fraud, or mistake

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:

. . .

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

. . .

(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.

10. Bus. & Prof. 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.

IV.

GENERAL BACKGROUND

11. By reference paragraphs 2 through 5 are incorporated herein. In June 2003, while working at McLaine's Drug Center, in Grants Pass, Oregon, Respondent gave a pharmacy technician approximately ten (10) Android (methyltestoterone) capsules, a schedule III controlled substance, without a prescription. Respondent's conduct violated Federal Law, Oregon Pharmacy Law, and the Oregon Board Consent Order. Due to the violation, Respondent's original Oregon probation was extended until January 17, 2010, three additional years.

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V.

VIOLATIONS

(B&P SECTION 4301(j))

(Violation of Federal And State Laws)

12. Paragraphs 2 through 5, and 11 are incorporated herein by reference. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code section 4301, subdivision (j). In providing a pharmacy technician schedule III controlled substances without a prescription, Respondent violated state or federal regulations concerning controlled substances and dangerous drugs.

(B&P SECTION 4301(n)

(Out-Of-State Discipline)

13. Paragraphs 2 through 5, and 11 are incorporated herein by reference. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code section 4301, subdivision (n), in that he was disciplined by the Oregon Board for giving medications to a pharmacy technician without a prescription.

(B&P SECTION 4300(d)

(Violation of Laws and Regulations)

14. Paragraphs 2 through 5, and 11 are incorporated herein by reference. Respondent is subject to disciplinary action pursuant to California Code of Regulations, title 16, Section 1773, and Bus. & Prof. Code section 4300(d), due to his violation of the terms and conditions of his California probation. More specifically, Respondent violated term No. 1 of the Board's stipulated settlement in Case No. 2292, which required him to obey all federal and state laws and regulations relating to the practice of pharmacy.

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VI.

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 Pharmacy License RPH 35050, issued to Steven Michael Lavering;

2. Vacating the Board's stayed revocation of Pharmacist License Number Pharmacy License RPH 35050, in Case No. 2292;

3. Ordering Respondent Steven Michael Lavering 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;

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

DATED: 9/7/06

Virginia K. Herold
Interim Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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