

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

In the Matter of the Accusation Against:

SUSAN MICHELLE DANIELSEN
25 A Crescent Drive
PMB 111
Pleasant Hill, CA 94523

Pharmacy Technician License No. TCH 53150

Respondent.

Case No. 3076

OAH No.

DECISION AND ORDER

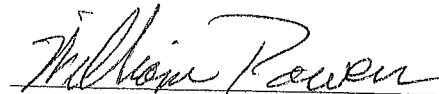
The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on January 16, 2008.

It is so ORDERED December 17, 2007.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



WILLIAM POWERS

Board President

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
4 California Department of Justice
455 Golden Gate Avenue, Suite 11000
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Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480

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:
13 SUSAN MICHELLE DANIELSEN
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PMB 111
Pleasant Hill, CA 94523
14
15 Pharmacy Technician License No. TCH 53150
16 Respondent.

Case No. 3076

OAH No.

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

17
18 In the interest of a prompt and speedy resolution of this matter, consistent with the
19 public interest and responsibility of the Board of Pharmacy, Department of Consumer Affairs,
20 the parties hereby agree to the following Stipulated Surrender of License and Order, to be
21 submitted to the Board for approval and adoption as the final disposition of the Accusation.

22 PARTIES

23 1. Virginia Herold (Complainant) is the Executive Officer of the Board of
24 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
25 by Edmund G. Brown Jr., Attorney General of the State of California, by Joshua A. Room,
26 Deputy Attorney General.

27 2. Susan Michelle Daniels (Respondent) is representing herself in this
28 proceeding and has chosen not to exercise her right to be represented by counsel.

1 3. On or about December 16, 2003, the Board of Pharmacy issued Pharmacy
2 Technician License No. TCH 53150 to Susan Michelle Danielsen (Respondent). The License
3 was in full force and effect at all times relevant to the charges brought in Accusation No. 3076.
4 It expired on June 30, 2007, and has not been renewed.

5 JURISDICTION

6 4. Accusation No. 3076 was filed before the Board of Pharmacy (Board),
7 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
8 and all other statutorily required documents were properly served on Respondent on July 20,
9 2007. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of
10 Accusation No. 3076 is attached as exhibit A and incorporated herein by reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read and understands the charges and allegations
13 in Accusation No. 3076. Respondent also has carefully read and fully understands the effects of
14 this Stipulated Surrender of License and Order.

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

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

24 CULPABILITY

25 8. Respondent gives up her right to contest the allegations in Accusation No.
26 3076, agrees that cause exists for discipline, and hereby surrenders her Pharmacy Technician
27 License No. TCH 53150 for the Board's formal acceptance.

28 ///

1 9. Respondent understands that by signing this stipulation she enables the
2 Board to issue an order accepting the surrender of her License without further process.

3 RESERVATION

4 10. The admissions made by Respondent herein are only for the purposes of
5 this proceeding, or any other proceedings in which the Board or other professional licensing
6 agency is involved, and shall not be admissible in any other criminal or civil proceeding.

7 CONTINGENCY

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

17 OTHER MATTERS

18 12. The parties understand and agree that facsimile copies of this Stipulated
19 Surrender of License and Order, including facsimile signatures thereto, shall have the same force
20 and effect as the originals.

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

24 DISCIPLINARY ORDER

25
26
27 IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 53150,
28 issued to Respondent Susan Michelle Danielsen, is surrendered and accepted by the Board.

1 14. The surrender of Respondent's Pharmacy Technician License and the
2 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
3 against Respondent. This stipulation constitutes a record of the discipline and shall become a
4 part of Respondent's license history with the Board.

5 15. Respondent shall lose all rights and privileges as a Pharmacy Technician
6 in California as of the effective date of the Board's Decision and Order.

7 16. Respondent shall cause to be delivered to the Board her License, wall and
8 pocket license certificate(s), on or before the effective date of the Decision and Order.

9 17. Respondent may not apply, reapply, or petition for any licensure or
10 registration of the Board for three (3) years from the effective date of the Decision and Order.

11 18. Respondent understands and agrees that if she ever applies for licensure or
12 petitions for reinstatement in the State of California, the Board shall treat it as a new application
13 for licensure. Respondent must comply with all laws, regulations and procedures for licensure in
14 effect at the time such an application or petition is filed, and all of the charges and allegations in
15 Accusation No. 3076 shall be deemed to be true, correct and admitted by Respondent when the
16 Board determines whether to grant or deny the application or petition.

17 19. Should Respondent ever apply or reapply for a new license or certification,
18 or petition for reinstatement of a license, by any other health care licensing agency in the State of
19 California, all of the charges and allegations contained in Accusation No. 3076 shall be deemed
20 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
21 other proceeding seeking to deny or restrict licensure.

22 20. Respondent shall pay the Board its costs of investigation and enforcement
23 in the amount of \$4,417.75 prior to issuance of a new or reinstated license.

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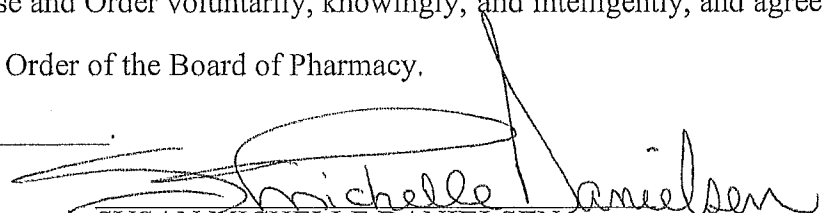
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ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacy Technician 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: 11/1/2007


SUSAN MICHELLE DANIELSEN
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: 11/8/07

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

FRANK H. PACOE
Supervising Deputy Attorney General


JOSHUA A. ROOM
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SF2007401321
40172197.wpd

Exhibit A
Accusation No. 3076

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
4 California Department of Justice
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480

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14 Pharmacy Technician License No. TCH 53150

15 Respondent.

Case No. 3076

OAH No.

ACCUSATION

17 Complainant alleges:

18 PARTIES

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

21 2. On or about December 16, 2003, the Board of Pharmacy issued Pharmacy
22 Technician License No. TCH 53150 to Susan Michelle Danielsen (Respondent). The Pharmacy
23 Technician License was in full force and effect at all times relevant to the charges brought herein
24 and will expire on June 30, 2007, unless renewed.

25 JURISDICTION

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

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

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

6 6. Section 118(b) of the Code provides, in pertinent part, that the suspension,
7 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to
8 proceed with a disciplinary action during the period within which the license may be renewed,
9 restored, reissued or reinstated. Section 4402(a) of the Code provides that any pharmacist license
10 that is not renewed within three years following its expiration may not be renewed, restored, or
11 reinstated and shall be canceled by operation of law at the end of the three-year period. Section
12 4402(e) of the Code provides that any other license issued by the Board may be canceled by the
13 Board if not renewed within 60 days after its expiration, and any license canceled in this fashion
14 may not be reissued but will instead require a new application to seek reissuance.

15 STATUTORY PROVISIONS

16 7. Section 4301 of the Code provides, in pertinent part, that the Board shall
17 take action against any holder of a license who is guilty of “unprofessional conduct,” defined to
18 include, but not be limited to, any of the following:

19 ...

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

23 ...

24 “(h) The administering to oneself, of any controlled substance, or the use of any
25 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or
26 injurious to oneself, to a person holding a license under this chapter, or to any other person or to
27 the public, or to the extent that the use impairs the ability of the person to conduct with safety to
28 the public the practice authorized by the license.

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

4
5 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or
6 abetting the violation of or conspiring to violate any provision or term of this chapter or of the
7 applicable federal and state laws and regulations governing pharmacy, including regulations
8 established by the board.

9
10 8. Section 4059 of the Code, in pertinent part, prohibits furnishing of any
11 dangerous drug or dangerous device except upon the prescription of an authorized prescriber.

12 9. Section 4060 of the Code provides, in pertinent part, that no person shall
13 possess any controlled substance, except that furnished upon a valid prescription/drug order.

14 10. Section 4327 of the Code makes it unlawful for any person, while on duty,
15 to sell, dispense or compound any drug while under the influence of a dangerous drug or alcohol.

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

18 12. Health and Safety Code section 11173, subdivision (a), provides that no
19 person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure
20 the administration of or prescription for controlled substances, (1) by fraud, deceit,
21 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

22 13. Health and Safety Code section 11350, in pertinent part, makes it unlawful
23 to possess Schedule II (Health and Safety Code section 11055), subdivision (c), or any narcotic
24 drug in Schedules III-V, unless upon written prescription of an authorized prescriber.

25 14. Health and Safety Code section 11550, in pertinent part, makes it unlawful
26 for any person to use or be under the influence of any controlled substance in Schedule II (Health
27 and Safety Code section 11055), subdivision (c), or any narcotic drug in Schedules III-V, except
28 when administered by or under the direction of an authorized licensee.

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

4 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

5 16. Section 4021 of the Code states:

6 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing
7 with Section 11053) of Division 10 of the Health and Safety Code.”

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

9 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for
10 self-use, except veterinary drugs that are labeled as such, and includes the following:

11 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing
12 without prescription,’ ‘Rx only,’ or words of similar import.

13 ...
14

15 “(c) Any other drug or device that by federal or state law can be lawfully
16 dispensed only on prescription or furnished pursuant to Section 4006.”

17 18. **Methadone** is a Schedule II controlled substance as designated by Health
18 and Safety Code section 11055(c)(14) and a dangerous drug as designated by Business and
19 Professions Code section 4022. It is a narcotic drug.

20 19. **Norco** and **Vicodin** are among the brand names for compounds of varying
21 dosages of acetaminophen (aka APAP) and **hydrocodone**, a Schedule III controlled substance as
22 designated by Health and Safety Code section 11056(e)(4) and a dangerous drug as designated by
23 Business and Professions Code section 4022. In generic form, these drugs may also be known as
24 **hydrocodone with APAP**. These are narcotic pain relief drugs.

25 20. **Soma** is a brand name for **carisoprodol**, a dangerous drug as designated
26 by Business and Professions Code section 4022. It is a muscle relaxant.

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FACTUAL BACKGROUND

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2 21. Between on or about March 31, 2004 and on or about April 17, 2006,
3 Respondent was employed as a pharmacy technician at a Longs Drug Store (PHY 14794; Longs
4 Drug Store # 42) located in Walnut Creek, CA.

5 22. On numerous unknown dates between on or about July 21, 2005 and on or
6 about April 17, 2006, Respondent took/stole from the Longs Drug Store stock, for her own use,
7 controlled substances or dangerous drugs including **methadone**, **Norco**, and **Vicodin**. While on
8 duty as a pharmacy technician, Respondent ingested/self-administered the controlled substances.

9 23. The total quantity of controlled substances or dangerous drugs stolen is not
10 known. Respondent admitted to Longs Drug Store investigator(s) to stealing at least 100-150
11 tablets of **methadone**, 150 tablets of **Norco**, and 100-150 tablets of **Vicodin**. On or about May
12 17, 2006, Longs Drug Store reported total losses during the pertinent period of 1,567 tablets of
13 **methadone**, 22 tablets of **Vicodin ES**, 35 tablets of **Norco**, 560 tablets of **hydrocodone with**
14 **APAP 5/500** (generic equivalent to **Vicodin**), 100 tablets of **hydrocodone with APAP 10/325**
15 (generic equivalent to **Norco**), and 100 tablets of **carisoprodol** (generic equivalent to **Soma**).

16 24. On or about April 19, 2006, Respondent was taken into custody by Walnut
17 Creek Police. On or about May 3, 2006, Respondent was charged, by Misdemeanor Complaint,
18 with violating Penal Code section 503 [Embezzlement], a misdemeanor. The Complaint was
19 later amended to add a second count, of violating Business and Professions Code section 4060
20 [Possession of Controlled Substance Without Valid Prescription], also a misdemeanor. On or
21 about October 4, 2006, Respondent entered a plea of no contest to the second count, violation of
22 Business and Professions Code section 4060. The first count was dismissed pursuant to the plea.
23 Respondent was entered into Pretrial Diversion pursuant to Penal Code section 1000 et seq., for a
24 period of eighteen (18) months. She is scheduled for a status review on March 24, 2008. Until
25 that date, the criminal proceedings are suspended pending her participation in drug treatment and
26 compliance with other terms and conditions of her Pretrial Diversion. If she completes Pretrial
27 Diversion successfully, the case pending against her will be dismissed.

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1 FIRST CAUSE FOR DISCIPLINE

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

3 25. Respondent is subject to discipline under section 4301(f) of the Code in
4 that Respondent, as described in paragraphs 21-23 above, committed numerous acts involving
5 moral turpitude, dishonesty, fraud, deceit, or corruption.

6 SECOND CAUSE FOR DISCIPLINE

7 (Unlawful Self-Administration of a Controlled Substance)

8 26. Respondent is subject to discipline under section 4301(h), (j), and/or (o) of
9 the Code, section 4059 of the Code, and/or Health and Safety Code section 11170, in that
10 Respondent, as described in paragraphs 21-23 above, repeatedly furnished and/or administered to
11 herself unknown quantities of controlled substances and/or dangerous drugs.

12 THIRD CAUSE FOR DISCIPLINE

13 (Unlawful Furnishing)

14 27. Respondent is subject to discipline under section 4301(j) and/or (o) of the
15 Code, and/or section 4059 of the Code, in that Respondent, as described in paragraphs 21-23
16 above, furnished and/or conspired to furnish, and/or assisted in or abetted the furnishing of,
17 unknown quantities controlled substances and/or dangerous drugs, without a valid prescription.

18 FOURTH CAUSE FOR DISCIPLINE

19 (Unlawful Possession of Controlled Substances)

20 28. Respondent is subject to discipline under section 4301(j) and/or (o) of the
21 Code, and/or section 4060 of the Code, in that Respondent, as described in paragraphs 21-23
22 above, possessed, conspired to possess, and/or assisted in or abetted the possession of, unknown
23 quantities of controlled substances and/or dangerous drugs, without a valid prescription.

24 FIFTH CAUSE FOR DISCIPLINE

25 (Working While Under the Influence)

26 29. Respondent is subject to discipline under section 4301(j) and/or (o) of the
27 Code, and/or section 4327 of the Code, in that Respondent, as described in paragraphs 21-23
28 above, was under the influence of controlled substances while selling or dispensing drugs.

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SIXTH CAUSE FOR DISCIPLINE

(Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)

30. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code, and/or Health and Safety Code section 11173(a), in that Respondent, as described in paragraphs 21-23 above, obtained unknown quantities of controlled substances, by fraud, deceit, misrepresentation, subterfuge, or concealment of material fact.

SEVENTH CAUSE FOR DISCIPLINE

(Unlawful Possession of Narcotic Controlled Substances)

31. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code, and/or Health and Safety Code section 11350, in that, as described in paragraphs 21-23 above, Respondent possessed, conspired to possess, and/or assisted in or abetted possession of, certain identified controlled substances, without a valid prescription.

EIGHTH CAUSE FOR DISCIPLINE

(Unlawful Use of Narcotic Controlled Substances)

32. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code, and/or Health and Safety Code section 11350, in that, as described in paragraphs 21-23 above, Respondent used or was under the influence of, conspired to use/be under the influence of, and/or assisted in or abetted use/being under the influence of, certain identified controlled substances, not administered by or under the direction of an authorized licensee.

NINTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

33. Respondent is subject to discipline under section 4301 of the Code in that Respondent, as described in paragraphs 21-32 above, engaged in unprofessional conduct.

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DISCIPLINE CONSIDERATIONS

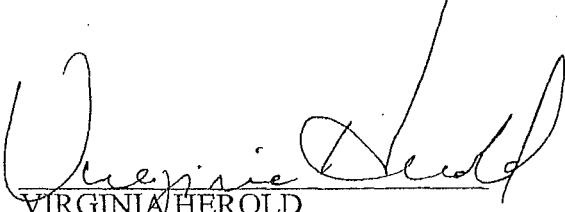
34. To determine the degree of discipline, if any, to impose on Respondent, Complainant alleges that on or about May 7, 1997, in a prior criminal proceeding titled *People v. Susan Michelle Danielsen* in Contra Costa Superior Court, Case Number 103263-0, Respondent was convicted of violating Vehicle Code section 23152(b) [Driving while having a blood alcohol level of 0.08% or higher], a misdemeanor. Imposition of judgment was suspended in favor of a court period of probation of three (3) years on terms and conditions including: two (2) days of imprisonment/enrollment in the Work Alternative Program; completion of the First Offender Drinking Driver's Program; completion of 192 hours of volunteer community service; and court fines and fees. The record of the criminal proceeding is incorporated as if fully set forth herein.

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 Technician License Number 53150, issued to Susan Michelle Danielson (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: 7/12/07



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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