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

In the Matter of the Accusation/Petition to Revoke Probation Against: CRAIG MURRAY KANOUSE 3014 Evergreen Visalia, CA 93277 Pharmacist License No. RPH 38910 Respondent.	Case No. 3127

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 August 27, 2008.

It is so ORDERED July 28, 2008.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____
KENNETH H. SCHELL
Board President

EDMUND G. BROWN JR., Attorney General
of the State of California
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Supervising Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the Accusation/Petition to Revoke Probation Against: CRAIG MURRAY KANOUSE 3014 Evergreen Visalia, CA 93277 Pharmacist License No. RPH 38910 Respondent.	Case No. 3127 **STIPULATED SURRENDER OF LICENSE 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 Herold (Complainant) is the Executive Officer of the Board of Pharmacy. She brought this action solely in her official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Elena L. Almanzo, Deputy Attorney General.

2. Craig Murray Kanouse (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about August 27, 1984, the Board of Pharmacy issued Pharmacist License No. RPH 38910 to Craig Murray Kanouse (Respondent).

JURISDICTION

4. The Accusation/Petition to Revoke Probation in Case No. 3127 was filed

before the Board of Pharmacy (Board) , Department of Consumer Affairs, and is currently pending against Respondent. The Accusation/Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on February 28, 2008. Respondent timely filed his Notice of Defense contesting the Accusation/Petition to Revoke Probation. A copy of Accusation/Petition to Revoke Probation No. 3127 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations set forth in Accusation/Petition to Revoke Probation in Case No. 3127. 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/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.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in the Accusation/Petition to Revoke Probation in Case No. 3127, agrees that cause exists for discipline and hereby surrenders his Pharmacist License No. RPH 38910 for the Board's formal acceptance.

9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Pharmacist License without further process.

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CONTINGENCY

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

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

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

ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 38910, issued to Respondent Craig Murray Kanouse is surrendered and accepted by the Board of Pharmacy.

13. The surrender of Respondent's Pharmacist 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.

14. Respondent shall lose all rights and privileges as a pharmacist in California as of the effective date of the Board's Decision and Order.

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

16. Respondent fully understands and agrees that if he ever files an application

for licensure or a petition for reinstatement in the State of California, the Board shall treat it as an application for a new license. Respondent must comply with all the laws, regulations and procedures for a new license in effect at the time the application is filed, and all of the charges and allegations contained in the Accusation/Petition to Revoke Probation in Case No. 3127 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application.

17. 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.

18. Should Respondent ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in the Accusation/Petition to Revoke Probation, Case No. 3127 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.

19. Respondent shall pay the Board its costs of investigation and enforcement in the amount of $3,364.00 prior to issuance of a new license.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacist 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: 5-9-08.

Craig Murray Kanouse (Respondent)
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: May 15, 2008

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

ARTHUR D. TAGGART
Supervising Deputy Attorney General

ELENA L. ALMANZO
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SA2007102611
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Exhibit A

Accusation/Petition to Revoke Probation No. 3127

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of the State of California
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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/Petition to Revoke Probation Against: CRAIG MURRAY KANOUSE 3014 Evergreen Visalia, CA 93277 Pharmacist License No RPH 38910	Case No. 3127 **ACCUSATION AND PETITION TO REVOKE PROBATION**

Complainant alleges:

PARTIES

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

2. On or about August 27, 1984, the Board of Pharmacy issued Pharmacy Number RPH 38910 to Craig Murray Kanouse (Respondent). Said license will expire September 30, 2009, unless renewed.

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.

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4. Section 4300 of the Code states:

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

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

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

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

"(4) Revoking his or her license.

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

"(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy, including, but not limited to, the following:

"(1) Medical or psychiatric evaluation.

"(2) Continuing medical or psychiatric treatment.

"(3) Restriction of type or circumstances of practice.

"(4) Continuing participation in a board-approved rehabilitation program.

"(5) Abstention from the use of alcohol or drugs.

"(6) Random fluid testing for alcohol or drugs.

"(7) Compliance with laws and regulations governing the practice of pharmacy.

"(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.

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"(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

5. Section 4301 of the Code states 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.

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

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

"(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 or by any other state or federal regulatory agency.

6. Section 4022 of the Code states

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

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

"(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

"(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 4060 of the Code states:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7,or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

"Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices."

8. Health and Safety Code section 11170 provides as follows:

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

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9. Health and Safety Code section 11173 subd. (a) provides as follows:

"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."

10. 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 or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

11. "Codeine" with acetaminophen is a Schedule II controlled substance as designated by Health and Safety Code section 11056(e)(2).

12. "Vicodin" is a compound consisting of 5 mg. hydrocodone bitartrate with acetaminophen also known as dihydrocodeinone, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4), and 500 mg. acetaminophen per tablet.

13. "Norco" is a compound consisting of 10 mg. hydrocodone bitartrate with acetaminophen also known as dihydrocodeinone, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4), and 325 mg. acetaminophen per tablet.

14. "Methadone" is a schedule II controlled substance as defined in Health and Safety Code section 11055(c)(14).

15. "Xanax," a brand of alprazolam, is a Schedule IV controlled substance as defined in Health and Safety Code section 11057(d)(1).

16. On or about June 15, 2007, staff at Wasco Prison discovered that the narcotic cabinet in the pharmacy was unlocked. An inventory was performed and the following shortages were discovered:

DRUG	SCHEDULE	SHORTAGE
Codeine with acetaminophen	Schedule III	59
Hydrocodoen/acetaminophen 5 mg	Schedule III	91
Methadone 5mg	Schedule II	14
Hydrocodone/acetaminophen 10mg	Schedule III	10

Hydrocodone/acetaminophen 7.5mg	Schedule III	78
Xanax	Schedule III	5

17. On or about June 18, 2007, Respondent confessed to Wasco prison personnel that he had taken the missing narcotics.

FIRST CAUSE FOR DISCIPLINE

(Dishonesty/Fraud)

18. Respondent is subject to disciplinary action under section 4301 (f) and Health and Safety Code section 11173 for unprofessional conduct in that respondent engaged in acts of dishonesty and fraud in that he stole controlled substances as set forth in paragraph 19.

19. From approximately May 2007 to June of 2007, while employed as a pharmacist at Wasco Prison, respondent stole approximately 257 tablets of the following controlled substances: hydrocodone containing schedule III controlled substances, codeine-containing schedule III controlled substances, methandone-containing schedule II controlled substances, and alprazolam-containing schedule IV substances.

SECOND CAUSE FOR DISCIPLINE

(Possession)

20. Respondent is subject to disciplinary action under Code section 4301 (j) and (o) in conjunction with Code section 4060 and Health and Safety Code section 11350, subd. (a) and 11377 subd. (a) in that he illegally possessed controlled substances, as set forth in paragraph 21.

21. From approximately May 2007 to June of 2007, while employed as a pharmacist at Wasco Prison, respondent stole approximately 257 tablets of the following controlled substances: hydrocodone containing schedule II controlled substances, codeine-containing schedule III controlled substances, methandone-containing schedule II controlled substances, and alprazolam-containing schedule IV substances.

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THIRD CAUSE FOR DISCIPLINE

(Self-Administering Controlled Substances)

22. Respondent is subject to disciplinary action under Code section 4301 subd. (h) and Health and Safety Code section 11170 in that he self-administered medications, as set forth in paragraph 23.

23. On or about June 18, 2007, respondent admitted to Board Inspector Rick Iknoian that he had stolen and self-administered various controlled substances including those containing hydrocodone and methadone. Respondent admitted that he had been self-administering the stolen drugs for "the past month or so."

PETITION TO REVOKE PROBATION

24. Complainant realleges and incorporates herein by reference as if fully set forth the allegations contained in paragraphs 1 through 23 of the Accusation.

25. Condition 14 provides in pertinent part that if Respondent violates probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed.

26. Grounds exist to revoke Respondent's probation and reimpose the order of revocation of his pharmacist certificate in that respondent violated the terms and conditions of his probation as follows:

FIRST CAUSE TO REVOKE PROBATION

(Obey all Laws)

27. Condition 1 of Respondent's probation states, in pertinent part, that Respondent shall obey all state and federal laws and regulations substantially related to or governing the practice of pharmacy.

28. Respondent's probation is subject to revocation as follows;

a. Respondent failed to obey all state and federal laws and regulations substantially related to practice of pharmacy, as set forth more fully in paragraphs 18, 19, 20, 21, 22 and 23, above.

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SECOND CAUSE TO REVOKE PROBATION

(Failure to Successfully complete the Pharmacists Recovery Program)

29. Condition 16 states in pertinent part that Respondent shall contact the Pharmacists Recovery Program (PRP) for evaluation and shall successfully participate in and complete the treatment contract and any subsequent addendums as recommended and provided by the PRP and as approved by the Board.

30. Respondent's probation is subject to revocation in that he failed to successfully participate and complete the PRP. On June 21, 2007, respondent was terminated from the PRP as a Public Risk. Respondent's termination was based upon the following:

a. Respondent had 3 relapses since his enrollment in the Diversion program on May 30, 2001. Respondent's first relapse occurred on October 15, 2001. He relapsed by injecting Morphine and pharmaceutical Cocaine (speedballs) for a period of 11consecutive days. Respondent obtained the narcotics from his work site. Respondent's second relapse occurred on July 6, 2004 when he admitted he had been drinking alcohol. Respondent admitted to drinking seven beers a night three to four days a week for approximately two months. Respondent's third relapse occured in May and June of 2007, when respondent admitted to taking and using Vicodin, Tylenol #3 and Methadone from Wasco prison.

b. Respondent has attended unsuccessfully at least six Chemical Treatment programs including two in-patient treatment programs.

c. Respondent was non-compliant with biological fluid testing in that respondent was mandated to have his tests observed but did not have observed tests on at least two occasions. Additionally, Respondent had a total of nine invalid tests on 12/15/05, 3/18/06, 4/5/06, 4/14/06, 5/09/06, 9/29/06, 10/11/06, 11/28/06, and1/2/07.

THIRD CAUSE TO REVOKE PROBATION

(Failure to Abstain from Illegal use of Controlled Substances and Dangerous Drugs)

31. Condition 18 states in pertinent part that Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment.

32. Respondent's probation is subject to revocation in that he failed to abstain from the use of controlled substances as set forth more specifically above in paragraphs 18, 19, 20, 21, 22 and 23 of the Accusation.

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DISCIPLINE CONSIDERATIONS

33. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about July 19, 2005, in a prior disciplinary action entitled In the Matter of the Accusation Against: Craig Murray Kanouse, before the Board of Pharmacy, in Case Number 2546. Respondent's license was revoked; however the revocation was stayed, and respondent was placed on probation for a period of six years. A copy of the Board's decision is attached as Exhibit A. That decision is now final and is incorporated by reference as if fully set forth.

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 pharmacist Number RPH 38910, issued to Craig Murray Kanouse.

2. Ordering 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; and

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

DATED: 2/15/08

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

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EXHIBIT A

BILL LOCKYER, Attorney General
of the State of California
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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: CRAIG MURRAY KANOUSE 3014 Evergreen Visalia, California 93277 Original Pharmacist License Number RPH 38910 Respondent.	Case No. 2546 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Patricia F. Harris ("Complainant") is the 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 Ronald L. Diedrich, Deputy Attorney General.

2. Craig Murray Kanouse ("Respondent") is representing himself in this proceeding and has knowingly and voluntarily chosen not to exercise his right to be represented by counsel.

3. On or about August 27, 1984 the Board issued Original Pharmacist License number RPH 38910 Respondent. Respondent's pharmacist license was in full force and effect at all times relevant to the charges in Accusation No. 2546 and will expire on September 30, 2003, unless renewed.

JURISDICTION

4. Accusation No. 2546 was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 6, 2002. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 2546 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 2546. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary 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 Accusation No. 2546; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 2546.

9. Respondent agrees that his pharmacist license is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary

Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board 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 his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Original Pharmacist License number RPH 38910 issued to Respondent Craig Murray Kanouse is revoked. However, the revocation is stayed and Respondent is placed on probation for six (6) years on the following terms and conditions.

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

Respondent shall report any of the following occurrences to the Board, in writing, within 72 hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws

- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state and federal agency which involves Respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distribution or billing or charging for any drug, device or controlled substance.

2. **Reporting to the Board.** Respondent shall report to the Board quarterly. The report shall be made either in person or in writing, as directed. Respondent shall state under penalty of perjury whether there has been compliance with all the terms and conditions of probation. If the final probation report is not made as directed, probation shall be extended automatically until such time as the final report is made and accepted by the Board.

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

4. **Cooperation with Board Staff.** Respondent shall cooperate with the Board's inspectional program and in the Board's monitoring and investigation of Respondent's compliance with the terms and conditions of his probation. Failure to comply shall be considered a violation of probation.

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

6. **Notice to Employers.** Respondent shall notify all present and prospective employers of the decision in case number 2546 and the terms, conditions and restrictions imposed on Respondent by the decision. Within 30 days of the effective date of this decision, and within 15 days of Respondent undertaking new employment, Respondent shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in

writing acknowledging the employer has read the decision in case number 2546.

If Respondent works for or is employed by or through a pharmacy employment service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at every pharmacy of the and terms conditions of the decision in case number 2546 in advance of the Respondent commencing work at each pharmacy.

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

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

8. **Reimbursement of Board Costs.** Respondent shall pay to the Board its costs of investigation and prosecution in the amount of $6,000.00. Respondent shall make said payments as follows: quarterly payments of $500.00 over the first 3 years of probation. Failure to make a timely payment shall be considered a violation of probation.

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

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

10. **Status of License.** Respondent shall, at all times while on probation, maintain an active current license with the Board, including any period during which suspension or probation is tolled.

If Respondent's license expires or is cancelled by operation of law or otherwise, upon renewal or reapplication, Respondent's license shall be subject to all terms and

conditions of this probation not previously satisfied.

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

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

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

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

14. **Violation of Probation.** If Respondent violates probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke

probation and carry out the disciplinary order which was stayed. If a petition to revoke probation or an accusation is filed against Respondent during probation, the Board shall have continuing jurisdiction and the period of probation shall be extended, until the petition to revoke probation or accusation is heard and decided.

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

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

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

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

17. **Random Drug Screening.** Respondent, at his own expense, shall participate in random testing, including but not limited to biological fluid testing (urine,

blood), breathalyzer, hair follicle testing, or a drug screening program approved by the Board. The length of time shall be for the entire probation period and the frequency of testing will be determined by the Board. At all times Respondent shall fully cooperate with the Board, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as directed shall constitute a violation of probation. Any confirmed positive drug test shall result in the immediate suspension of practice by Respondent. Respondent may not resume the practice of pharmacy until notified by the Board in writing.

18. **Abstain from Drugs and Alcohol Use.** Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the Board, Respondent shall provide documentation from the licensed practitioner that the prescription was legitimately issued and is a necessary part of the treatment of the Respondent.

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

Continuous - 75% to 100% of a work week.

Substantial - At least 50% of a work week.

Partial - At least 25% of a work week.

Daily Review - Supervisor's review of probationer's daily activities within 24 hours.

Within 30 days of the effective date of this decision, Respondent shall have his supervisor submit notification to the Board in writing stating the supervisor has read the decision in case number 2546 and is familiar with the level of supervision as determined by the Board.

If Respondent changes employment, Respondent shall have his new supervisor, within 15 days after employment commences, submit notification to the Board in writing

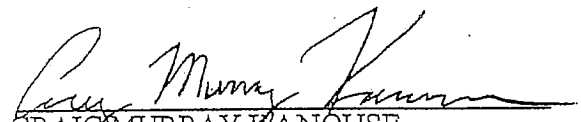
stating the direct supervisor and pharmacist-in-charge have read the decision in case number 2546 and is familiar with the level of supervision as determined by the Board.

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

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my pharmacist license. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 9-21-02.



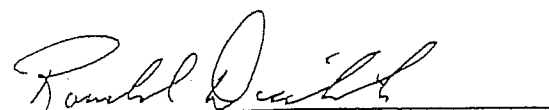
CRAIG MURRAY KANOUSE
Respondent

ENDORSEMENT

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

DATED: September 27, 2002.

BILL LOCKYER, Attorney General
of the State of California



RONALD L. DIEDRICH
Deputy Attorney General

Attorneys for Complainant

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

In the Matter of the Accusation Against: CRAIG MURRAY KANOUSE 3014 Evergreen Visalia, California 93277 Original Pharmacist License Number RPH 38910 Respondent.	Case No. 2546

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary 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 12, 2002.

It is so ORDERED on November 12, 2002.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By: _____
JOHN D. JONES
Board President

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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: CRAIG MURRAY KANOUSE 4836 W. Douglas Avenue, # 206 Visalia, CA 93291 Pharmacist License Number RPH 38910 Respondent.	Case No. 2546 ACCUSATION

Complainant alleges:

PARTIES

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

2. On or about August 27, 1984, the Board issued Original Pharmacist License Number RPH 38910 to Craig Murray Kanouse ("Respondent"). Respondent's pharmacist license was in full force and effect at all times relevant to the charges brought herein, and will expire on September 30, 2003, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following Business and Professions Code ("Code") sections:

a. Code section 4300, subdivision (a), provides that "[E]very license issued [by the Board] may be suspended or revoked [by the Board]."

c. Code section 4301 provides in pertinent part that "[T]he Board shall take action against any holder of a license who is guilty of unprofessional conduct . . . ."

STATUTORY PROVISIONS

4. Code section 4301, provides, in relevant part, that unprofessional conduct shall include, but not be limited to, 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.
>
> (h) The administering to oneself, of any controlled substance, or ...
>
> (j) The violation of any of the statutes of this state or of the United States regulating controlled substances and dangerous drugs.
>
> (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or terms of this chapter or of the applicable federal and state laws governing pharmacy, including regulations established by the board.

5. Code section 4060, 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 pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1. . . .

6. Code section 4327 provides that "[A]ny person who, while on duty, sells, dispenses or compounds any drug while under the influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor."

7. Health and Safety Code section 11170 provides that "[N]o person shall prescribe, administer, or furnish a controlled substance for himself."

8. Health and Safety Code section 11350, subdivision (a), provides that:

> Except as otherwise provided in this division, every person who possess (1) any controlled substance specified in 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.

(Cost Recovery)

9. Code section 125.3 provides, 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.

FIRST CAUSE FOR DISCIPLINE

(Corrupt Acts - Morphine)

10. Respondent is subject to disciplinary action under Code section 4301, subdivision (f), in that Respondent committed an act involving moral turpitude, dishonesty, fraud, deceit, or corruption.

11. From in or about October, 2000, to April 19, 2001, on multiple occasions, the exact dates of which are unknown, Respondent unlawfully, dishonestly and/or fraudulently appropriated morphine from his employer, while employed as a licensed pharmacist at the Kaweah Delta Health Care District Hospital Pharmacy ("Kaweah"), which is located in Visalia, California.

SECOND CAUSE FOR DISCIPLINE

(Corrupt Acts - Dilaudid & Cocaine)

12. Respondent is also subject to disciplinary action under Code section 4301, subdivision (f), in that Respondent committed an act involving moral turpitude, dishonesty, fraud, deceit, or corruption.

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13. On or about April 19, 2001, Respondent unlawfully, dishonestly and/or fraudulently appropriated a vial of Dilaudid - HP (hydromorphone) and/or a vial of Cocaine HCL from his employer, while employed as a licensed pharmacist at the Kaweah.

THIRD CAUSE FOR DISCIPLINE

(Possession of a Controlled Substances - Morphine)

14. Respondent is also subject to disciplinary action under Code section 4301, subdivision (j), in that Respondent violated the statutes of this state regulating controlled substances and dangerous drugs.

15. From in or about October, 2000, to April 19, 2001, on multiple occasions, the exact dates of which are unknown, Respondent was in possession of morphine, a Schedule II controlled substance, as specified in subdivision (b) of Health and Safety Code section 11055, without a prescription for that controlled substance, in violation of Code section 4060 and/or Health and Safety Code section 11350, subdivision (a).

FOURTH CAUSE FOR DISCIPLINE

(Possession of a Controlled Substances - Dilaudid - HP)

16. Respondent is also subject to disciplinary action under Code section 4301, subdivision (j), in that Respondent violated the statutes of this state regulating controlled substances and dangerous drugs.

17. On or about April 19, 2001, Respondent was in possession of dilaudid-HP, a Schedule II controlled substance, as specified in subdivision (b) of Health and Safety Code section 11055, without a prescription for that controlled substance, in violation of Code section 4060 and/or Health and Safety Code section 11350, subdivision (a).

FIFTH CAUSE FOR DISCIPLINE

(Possession of a Controlled Substances - Cocaine)

18. Respondent is also subject to disciplinary action under Code section 4301, subdivision (j), in that Respondent violated the statutes of this state regulating controlled substances and dangerous drugs.

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19. On or about April 19, 2001, Respondent was in possession of cocaine, a Schedule II controlled substance, as specified in subdivision (b) of Health and Safety Code section 11055, without a prescription for that controlled substance, in violation of Code section 4060 and/or Health and Safety Code section 11350, subdivision (a).

SIXTH CAUSE FOR DISCIPLINE

(Self-Administration of a Controlled Substances - Morphine)

20. Respondent is also subject to disciplinary action under Code section 4301, subdivision (j), in that Respondent violated the statutes of this state regulating controlled substances and dangerous drugs.

21. From in or about October, 2000, to April 19, 2001, on multiple occasions, the exact dates of which are unknown, Respondent administered or furnished to himself morphine, a Schedule II controlled substance, as specified in subdivision (b) of Health and Safety Code section 11055, in violation of Health and Safety Code section 11170.

SEVENTH CAUSE FOR DISCIPLINE

(Self-Administration of a Controlled Substances - Morphine)

22. Respondent is also subject to disciplinary action under Code section 4301, subdivision (h), in that Respondent administered to himself a controlled substance.

23. From in or about October, 2000, to April 19, 2001, on multiple occasions, the exact dates of which are unknown, Respondent administered to himself morphine, a Schedule II controlled substance, as specified in subdivision (b) of Health and Safety Code section 11055.

EIGHTH CAUSE FOR DISCIPLINE

(Working as a Pharmacist While Under the Influence)

24. Respondent is also subject to disciplinary action under Code section 4301, subdivision (o), in that Respondent violated or attempted to violate, directly or indirectly, a provision or terms of this chapter or of the applicable federal and state laws governing pharmacy, including regulations established by the board.

25. On or about April 22, 2001, Respondent, while on duty as a licensed pharmacist at Kaweah, sold, dispensed or compounded drugs while under the influence of

opiates, which are dangerous drugs as defined by Code section 4022, in violation of Code section 4327.

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PRAYER

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

1. Revoking or suspending Pharmacist License Number RPH 38910 issued to Craig Murray Kanouse;

2. Ordering Craig Murray Kanouse 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; and,

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

DATED: 7/31/02

P. F. Harris

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

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