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

In the Matter of the Accusation Against:

Case No. 3150

ROBERTO FLORES 411 North Alisos Street Santa Barbara, CA 93103

Pharmacy Technician Registration No. TCH 61788

Respondent.

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 January 9, 2009

It is so ORDERED on December 10, 2008

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

By

KENNETH H. SCHELL Board President

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. 1	EDMUND G. BROWN JR., Attorney General of the State of California KAREN B. CHAPPELLE	
3	Supervising Deputy Attorney General GREGORY J. SALUTE, State Bar No. 164015	
4	Supervising Deputy Attorney General 300 So. Spring Street, Suite 1702	
5	Los Angeles, CA 90013 Telephone: (213) 897-2520 Facsimile: (213) 897-2804	
6		
7	Attorneys for Complainant	
8	BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS	
10	STATE OF CALIFORNIA	
11	In the Matter of the Accusation Against: Case No. 3150	
12	ROBERTO FLORES OAH No. [Unassigned]	
13		
14	Pharmacy Technician Registration No. TCHDISCIPLINARY ORDER61788	
15	Respondent.	
16		
17	IT IS HEREBY STIPULATED AND AGREED by and between the parties to the	
18	above-entitled proceedings that the following matters are true:	
19	PARTIES	
_ 20	1. Virginia Herold (Complainant) is the Executive Officer of the Board of	
21	Pharmacy. She brought this action solely in her official capacity and is represented in this matter	•
22	by Edmund G. Brown Jr., Attorney General of the State of California, by Gregory J. Salute,	
23	Supervising Deputy Attorney General.	
. 24	2. Respondent Roberto Flores (Respondent) is representing himself in this	
25	proceeding and has chosen not to exercise his right to be represented by counsel.	
26	3. On or about April 6, 2005, the Board of Pharmacy issued Pharmacy	
. 27	Technician Registration No. TCH 61788 to Roberto Flores. The Pharmacy Technician	
28	Registration was in full force and effect at all times relevant to the charges brought in Accusation	
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		1	No. 3150 and will expire on July 31, 2008, unless renewed.	
•.		2	JURISDICTION	
		3	4. Accusation No. 3150 was filed before the Board of Pharmacy (Board),	
		4	Department of Consumer Affairs, and is currently pending against Respondent. The Accusation	
		5	and all other statutorily required documents were properly served on Respondent on September	
		6	5, 2008. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of	•
.		7	Accusation No. 3150 is attached as exhibit A and incorporated herein by reference.	
		8	ADVISEMENT AND WAIVERS	
• .		9	5. Respondent has carefully read, and understands the charges and allegations	
		10 ⁻	in Accusation No. 3150. Respondent has also carefully read, and understands the effects of this	
	-	11	Stipulated Settlement and Disciplinary Order.	
,		12	6. Respondent is fully aware of his legal rights in this matter, including the	
		13	right to a hearing on the charges and allegations in the Accusation; the right to be represented by	
	. •	14	counsel at his own expense; the right to confront and cross-examine the witnesses against him;	
		15	the right to present evidence and to testify on his own behalf; the right to the issuance of	
		16	subpoenas to compel the attendance of witnesses and the production of documents; the right to	
		17	reconsideration and court review of an adverse decision; and all other rights accorded by the	
`	•	18	California Administrative Procedure Act and other applicable laws.	
•		19	7. Respondent voluntarily, knowingly, and intelligently waives and gives up	
		20	each and every right set forth above.	
		21	<u>CULPABILITY</u>	
•		22 22	8. Respondent admits the truth of each and every charge and allegation in	
·		23	Accusation No. 3150.	
		24	9. Respondent agrees that his Pharmacy Technician Registration is subject to	
		25	discipline and he agrees to be bound by the Board of Pharmacy (Board) 's imposition of	
	• .	26	discipline as set forth in the Disciplinary Order below.	
		27	CONTINGENCY	
	•	28	10. This stipulation shall be subject to approval by the Board of Pharmacy.	
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Respondent understands and agrees that counsel for Complainant and the staff of the Board of 1 2 Pharmacy may communicate directly with the Board regarding this stipulation and settlement, 3 without notice to or participation by Respondent. By signing the stipulation, Respondent 4 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 5 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force 6 or effect, except for this paragraph, it shall be inadmissible in any legal action between the 8 parties, and the Board shall not be disqualified from further action by having considered this 9 matter.

10 11. The parties understand and agree that facsimile copies of this Stipulated
11 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
12 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:

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH
61788 issued to Respondent Roberto Flores is revoked. IT IS HEREBY FURTHER ORDERED
that collection of the Board's investigation and prosecution costs in the amount of \$3916.50 is
hereby waived unless and until Respondent's pharmacy technician license or any other license
granted to Respondent by the Board is reissued or reinstated in which case full payment of costs
must be made to the Board by Respondent prior to licensure.

IT IS ALSO ORDERED THAT pursuant to Business and Professions Code
section 4309(a)(1), Respondent may reapply for reinstatement no sooner than three (3) years
from the effective date of this Decision and Order.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I
understand the stipulation and the effect it will have on my Pharmacy Technician Registration.

I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and 1 intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy. 2 DATED: 10-12-08 3 4 5 OFLORES (Respondent) ROBER' 6 Respondent 7 8 ENDORSEMENT 9 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully 10 submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs. 11 12 10-20-08 DATED: 13 14 EDMUND G. BROWN JR., Attorney General of the State of California 15 KAREN B. CHAPPELLE 16 Supervising Deputy Attorney General 17 18 19 REGOR UTE Supervising Depaty Attorney General 20 Attorneys for Complainant 21 22 DOJ Matter ID: LA2008600542 23 24 25 26 27 28

Exhibit A Accusation No. 3150

4, C ,	
· 1	EDMUND G. BROWN JR., Attorney General of the State of California KAREN B. CHAPPELLE
- 3	Supervising Deputy Attorney General WILLIAM R. TAYLOR, State Bar No. 222455
	Deputy Attorney General
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7	Attorneys for Complainant
8	BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
9	STATE OF CALIFORNIA
10	In the Matter of the Accusation Against: Case No. 3150
11	ROBERTO FLORES
12	411 North Alisos StreetACCUSATIONSanta Barbara, CA 9310393103
13	Pharmacy Technician Registration No. TCH
14	61788
15	Respondent.
16	
17	Complainant alleges:
18	PARTIES
19	1. Virginia K. Herold (Complainant) brings this Accusation solely in her
20	official capacity as the Executive Officer of the Board of Pharmacy.
21	2. On or about April 6, 2005, the Board of Pharmacy issued Pharmacy
. 22	Technician Registration Number TCH 61788 to Roberto Flores (Respondent). The Pharmacy
23	Technician Registration was in full force and effect at all times relevant to the charges brought
24	herein and will expire on July 31, 2008, unless renewed.
.25	JURISDICTION
26	3. This Accusation is brought before the Board of Pharmacy, under the
27	authority of the following laws. All section references are to the Business and Professions Code
28	unless otherwise indicated.
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	II. ▲

4. Section 4060 of the Code states:

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· 2	"No person shall possess any controlled substance, except that furnished to a
[.] 3	person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
4	naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a
5	certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section
6	2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to
. 7	Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause
8	(iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall
9	not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
10	pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
11	nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
12	labeled with the name and address of the supplier or producer.
13	"Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner,
14	a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs
15	and devices."
16	5. Section 4301 of the Code states:
17	"The board shall take action against any holder of a license who is guilty of
18	unprofessional conduct or whose license has been procured by fraud or misrepresentation or
19	issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the
20	following:
21	•••
22	"(f) The commission of any act involving moral turpitude, dishonesty, fraud,
23	deceit, or corruption, whether the act is committed in the course of relations as a licensee or
24	otherwise, and whether the act is a felony or misdemeanor or not.
25	••••
26	"(h) The administering to oneself, of any controlled substance, or the use of any
27	dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or
28	injurious to oneself, to a person holding a license under this chapter, or to any other person or to

1	the public, or to the extent that the use impairs the ability of the person to conduct with safety to
<u>'</u> 2	the public the practice authorized by the license.
3	"(j) The violation of any of the statutes of this state, of any other state, or of the
4	United States regulating controlled substances and dangerous drugs.
5	27 • • • ••
6	6. Section 4327 of the Code states:
7	"Any person who, while on duty, sells, dispenses, or compounds any drug while
8	under the influence of any dangerous drug or alcoholic beverages shall be guilty of a
9	misdemeanor."
10	7. Section 118, subdivision (b), of the Code provides that the expiration of a
11	license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the
12	period within which the license may be renewed, restored, reissued or reinstated.
13	<u>Cost Recovery</u>
14	8. Section 125.3 of the Code provides, in pertinent part, that the Board may
15	request the administrative law judge to direct a licentiate found to have committed a violation or
16	violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
17	and enforcement of the case.
18	9. <u>DEFINITIONS</u> :
19	A. "Soma," is the brand name for the generic Carisoprodol, and is classified
20	as a "dangerous drug" pursuant to Business and Professions Code section 4022.
21	B. "Vicodin," is the brand name for Hydrocodone with Acetaminophen. It is
22	classified as a Schedule III controlled substance pursuant to Health and Safety Code Section
23	11056, subdivision (e)(5), and is categorized as a "dangerous drug" pursuant to Business and
24	Professions Code section 4022.
25	FIRST CAUSE FOR DISCIPLINE
26	(Unprofessional Conduct - Theft of Dangerous Drugs)
27	10. Respondent is subject to disciplinary action under section 4301,
28	subdivision (f), in that on or about January 3, 2006, Respondent admitted to an officer with the
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Santa Barbara Police Department to having diverted 25 plastic packages of the generic form of the drug Soma (350 mg) from his employer Santa Barbara Cottage Hospital Pharmacy. The facts and circumstances are as follows:

On or about January 3, 2006, officers with the Santa Barbara Police 4 a. 5 Department found Respondent's vehicle illegally parked curbside near Santa Barbara Cottage Hospital, and upon a DMV records search discovered that the vehicle had several other 6 7 outstanding parking tickets warranting impoundment. Pursuant to a lawful inventory search of the vehicle, officers seized 25 plastic packages for the generic form of the drug Soma (350 mg), 8 9 44 Vicodin tablets without a prescription, and less than one ounce of marijuana from the interior 10 of the vehicle. Upon officer questioning, Respondent admitted that he had diverted the Soma from his employer Santa Barbara Cottage Hospital Pharmacy, where he worked as a pharmacy 11 12 technician.

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SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Possession of a Dangerous Drug and Controlled Substances)
11. Respondent is subject to disciplinary action under sections 4060 and 4301,
subdivision (j), in that on or about January 3, 2006, during a lawful search of Respondent's
vehicle, officers with the Santa Barbara Police Department found that Respondent was in
possession of 25 plastic packages for the generic form of the drug Soma, 44 Vicodin tablets, and
less than one ounce of marijuana. Complainant refers to and by this reference incorporates the
allegations set forth in paragraph 10, subparagraph (a) above, as though set forth fully herein.

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THIRD CAUSE FOR DISCIPLINE

(Dispensing While Under the Influence of Drugs)

12. Respondent is subject to disciplinary action under sections 4327 and 4301,
subdivision (j), in that between on or about October 2004 through March 2006, Respondent
worked as a pharmacy technician at Santa Barbara Cottage Hospital, while under the influence of
controlled substances and dangerous drugs. The facts and circumstances are as follows:
a. On or about February 22, 2006, Respondent admitted to officials with
Santa Barbara Cottage Hospital that while working as a pharmacy technician at the hospital

1	pharmacy from October 2004 through March 2006, Respondent performed his duties while under
2	the influence of dangerous drugs and controlled substances.
2	DDAVED

<u>PRAYER</u>

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:

Revoking or suspending Pharmacy Technician Registration Number TCH
 61788, issued to Roberto Flores Roberto Flores;

8 2. Ordering Roberto Flores to pay the Pharmacy Board the reasonable costs
9 of the investigation and enforcement of this case, pursuant to Business and Professions Code
10 section 125.3;

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DATED:

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

VIRGINIA/K. HEROLD Executive/Officer Board of Pharmacy State of California Complainant

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