

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

In the Matter of the First Amended Accusation
and Petition to Revoke Probation Against:

RONALD BRADLEY HASLAM
5850 Jan Drive
La Mesa, CA 91942

Respondent.

Case No. 3201

OAH No. 2009020056

DECISION


The attached Proposed Decision of the Administrative Law Judge is hereby adopted
by the Board of Pharmacy as its Decision in the above-entitled matter.

This decision shall become effective on November 25, 2009.

It is so ORDERED October 26, 2009.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



KENNETH H. SCHELL
Board President

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

In the Matter of the First Amended Accusation
and Petition to Revoke the Probation of:

RONALD BRADLEY HASLAM,

Pharmacist License No. RPH 43678,

Respondent.

Board of Pharmacy Case No. 3201

OAH No. 2009020056

PROPOSED DECISION

James Ahler, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on July 1, 2009, in San Diego, California.

Rita M. Lane, Deputy Attorney General, represented complainant Virginia Herold, the Executive Office of the Board of Pharmacy, Department of Consumer Affairs, State of California.

David M. Balfour, Attorney at Law, represented respondent Ronald Bradley Haslam, who was present throughout the disciplinary proceeding.

The matter was submitted on July 1, 2009.

FACTUAL FINDINGS

Jurisdictional Matters

1. On May 14, 2009, complainant Virginia Herold, Executive Officer, Board of Pharmacy (the Board), Department of Consumer Affairs, State of California, signed the First Amended Accusation and Petition to Revoke Probation. All new factual allegations were controverted as a result of a notice of defense previously filed by Ronald Bradley Haslam (Haslam or respondent). The First Amended Accusation and Petition to Revoke Probation and other jurisdictional documents were served on Haslam and his attorneys.

On July 1, 2009, the record in the disciplinary proceeding was opened, jurisdictional documents were presented, opening statements were given, sworn testimony was received, documentary evidence was produced, official notice was taken, closing arguments were given, the record was closed, and the matter was submitted.

Haslam's License History

2. On August 6, 1990, the Board issued Pharmacist License No. RPH 43678 to Ronald Bradley Haslam, authorizing him to practice pharmacy in California.

3. On August 1, 2007, the Board adopted a Decision After Nonadoption (the decision), which became effective on August 31, 2007. The Board's decision contained an Order that revoked Haslam's license, but stayed the revocation and placed Haslam on five years probation.

Terms and conditions of probation required Haslam to serve a 30-day suspension, beginning the effective date of the decision (condition 1); to obey all laws (condition 3); to submit to the Board, for its prior approval, the name and qualifications of a licensed mental health provider and to engage in psychotherapy with that provider at least once a week unless otherwise ordered (condition 4); to enter the Pharmacists Recovery Program (PRP) within 30 days of the effective date of the Board's order (condition 5); to submit to random drug screening (condition 6); to abstain from drugs and alcohol use unless lawfully prescribed by a licensed practitioner as a part of documented medical treatment (condition 7); to engage in a supervised pharmacy practice (condition 8); to report to the Board quarterly in person or in writing under penalty of perjury (condition 10); to provide notice to employers of the Board's disciplinary action and to direct his employers to submit written acknowledgments that the employers had read the Board's decision (condition 14); to reimburse the Board's costs of investigation and prosecution of \$9,000 at the rate of \$150 or more per month (condition 16); to pay probation monitoring costs (condition 17); and to notify the Board of any change of employment (condition 20).

No appeal was taken from the decision, which became final. The doctrine of collateral estoppel applies to the prior proceeding, thereby precluding the litigation of factual matters previously determined in that matter in this disciplinary proceeding.¹

¹ Collateral estoppel may be applied to decisions made by administrative agencies when an administrative agency acts in a judicial capacity and resolves disputed issues of fact properly before it which the parties have had an adequate opportunity to litigate. The primary public policy goal underlying the doctrine of collateral estoppel is to limit litigation by preventing a party who has had one fair trial on an issue from again drawing it into controversy. The threshold requirements of collateral estoppel include: 1) The issue to be precluded must be identical to that decided in the prior proceeding; 2) the issue must have been actually litigated at that time; 3) the issue must have been necessarily decided; 4) the decision in the prior proceeding must be final and on the merits; and 5) the party against whom preclusion is sought must be in privity with the party to the former proceeding. When these requirements are satisfied, the doctrine of collateral estoppel may be applied. (*People v. Garcia* (2006) 39 Cal.4th 1070, 1076.)

Factual Basis for the Prior Discipline

4. The following factual findings exist in the Decision After Nonadoption:

“Respondent’s Conduct at Wal-Mart Pharmacy 2253

14. In February and March 2004, Respondent was employed as a pharmacist at Wal-Mart Pharmacy 2253, located in El Cajon, California.

15. During February 2004, Wal-Mart placed a surveillance camera in Pharmacy 2253. The tape from the surveillance camera on February 24, 2004, shows Respondent selecting a bottle from a shelf within the pharmacy, opening the bottle, and consuming medication from the bottle. After consuming the medication as revealed in the surveillance video, Respondent, while on duty as a pharmacist, sold, dispensed, and compounded drugs at Wal-Mart Pharmacy 2253.

16. On March 10, 2004, agents from the Bureau of Narcotic Enforcement confronted Respondent with controlled substances and dangerous drugs that were missing from Wal Mart Pharmacy 2253. At this time, Respondent admitted to the agents that he was ingesting up to eight tablets per day of controlled substances that contained hydrocodone. On the same day, Respondent permitted the agents to search his person and residence. In the search, the agents found the following controlled substances and dangerous drugs that Respondent diverted from Wal-Mart Pharmacy 2253 during February and March 2004:

Drug	Amount
Lortab	34
Lorcet	13
Norco	22
Trazadone 100 mg	12
Trazadone 50 mg	82
Phentermine	1
Valium	130+
Viagra	11
Neurontin	1
Clonidine	1

17. On or about March 17, 2004, in the Superior Court of California, County of San Diego, East County Division, in a case entitled People v. Ronald Bradley Respondent, Case No. C238398, Respondent was convicted on his plea of guilty of violating Penal Code section 487(b)(3) (grand theft by employee), a misdemeanor. The facts and circumstances behind this conviction relate to Respondent’s diversion of controlled substances from Wal-Mart Pharmacy 2253, described in paragraphs 14 and 15 above.

18. As punishment for his conviction under Penal Code section 487(b)(3), Respondent was placed on probation for two years, with 180 days in custody stayed pending successful completion of probation, and ordered to pay a fine of \$500.00 and a restitution fine of \$100.00.

Respondent's Conduct at Longs Drug Stores

19. On or about March 25, 2004, Respondent completed an Employment Application to work as a pharmacist at Longs Drug Stores. In the Employment Application, Respondent failed to reference his employment at Wal-Mart Pharmacy 2253. Longs Drug Stores hired Respondent to work as a "floater" pharmacist at drug stores in the San Diego Area.

20. On or about June 14, 2004, managers for Longs Drug Stores confronted Respondent regarding missing personal property, time card discrepancies, and missing medications. At that time, Respondent admitted that he had taken a cordless phone set and a boom box from Longs Drug Store #274. These items were subsequently returned.² Respondent also admitted that there were a total of 20 minutes on his time cards for which he was not entitled to receive payment. Respondent also admitted that he diverted for his personal use the following controlled substances and dangerous drugs from various Longs Drug Stores where he worked:

Drug	Amount
Vicodin	300
Norco	140
Xanax	35
Effexor	24

21. On June 14, 2004, Respondent admitted to the managers at Longs Drug Stores that he diverted the above-described medications due to medical conditions that he was experiencing. Respondent consumed the drugs described in paragraph 19 above when he was on duty as a pharmacist at Longs Drug Stores, and that he sold, dispensed, and compounded drugs while under the influence of such medications."

The Board's decision contained the following factual findings regarding Haslam's evidence in mitigation and rehabilitation:

"Background and Respondent's Conduct after His Employment at Wal-Mart Pharmacy 2253 and Longs Drug Stores

22. Respondent has suffered from chronic neck and upper back pain for many years dating back to his late teens. The severity of his pain increased after a motor vehicle accident which occurred in 1997. The pain becomes worse after prolonged periods of time standing, looking down at his work area, and holding a telephone between his ear and shoulder, three postures associated with his job as a pharmacist. He had tried several different types of therapy including hot and cold physical therapy, strength training, deep tissue massage, and epidural injections which made no significant difference in his pain management. He explained that at one time he had prescriptions from a physician for his pain management for the drugs found in his possession in 2004.

23. In the past few years, Respondent has seen a number of medical doctors to help with his condition including his primary care doctor Robert Lajvardi, M.D. and Elyn Levine,

² In the disciplinary hearing in this matter, Haslam testified that he was given permission to take the cordless phone set and the boom box, and that he had testified to that effect in the earlier disciplinary proceeding. If that were the case, the administrative law judge's factual findings in the previous disciplinary matter, and the factual findings in the Board's Decision After Nonadoption, each of which was quite detailed, did not contain respondent's purported explanation.

M.D. Respondent was then referred to Christopher Glazener, M.D., an anesthesiologist, who provided area-specific injections which gave some temporary relief. In spite of these treatments, the pain persisted.

24. In early 2006, Respondent was referred to William L. Wilson, M.D. who is an anesthesiologist and chronic pain management specialist. He specializes in the diagnosis, treatment, and management of pain disorders. Dr. Wilson concluded that Respondent suffered from a cervical facet syndrome. He treated Respondent with paravertebral facet joint injections of Lidocaine and cortisone in his neck region, using fluoroscopic guidance. This procedure, which results in a more precise injection, has given Respondent far better relief of his pain than any other mode of treatment over the years. Over time, and with the help of these injections, Respondent has been able to reduce his other pain medications.

25. In a written report dated February 24, 2006, William L. Wilson, M.D., describes the history and prescribed medications used by Respondent, his examination results, diagnosis and recommendations for Respondent. He notes many of the medications, with the prescribed amounts, that Respondent used in the attempt to manage the pain he suffered over the years. The medications included generics and various brand names including Lortab, Norco, Trazadone, Xanax, and Effexor, among others. Dr. Wilson also referred Respondent for an evaluation by Gary Eaton, M.D., F.A.C.P., a psychiatrist and addiction specialist, regarding drug-seeking or addictive behaviors.

26. Dr. Wilson wrote in a February 24, 2006 report that it was possible that the medications in addition to providing analgesia were providing some form of psychotropic support for Respondent's depression and anxiety. He went on to write that patients are frequently not able to distinguish the various beneficial effects of the medications on their overall sense of well being.

27. In a March 29, 2006, letter to Dr. Wilson, Dr. Eaton wrote that Respondent did not appear to have any signs of addiction or abuse or illicit or illegal drug use.³

28. In a May 22, 2006 unaddressed letter to "To whom it may concern," Dr. Wilson wrote that the purpose of the letter was to note that Respondent's symptoms were consistent with cervical facet syndrome. Respondent's response to therapy allowed him to reduce his narcotic drug intake. Dr. Wilson also concluded that Respondent's ability to reduce his drug intake was consistent with the absence of addictive disease and that addictive disease had not played a role in the course of Respondent's pain problem.⁴

³ Paragraph 27 was not set forth in the Proposed Decision, but was added by the Board in its Decision After Nonadoption.

⁴ Paragraph 28 was not set forth in the Proposed Decision, but was added by the Board in its Decision After Nonadoption. The following factual finding was stricken:

"The evaluation by Dr. Eaton found no signs of addiction or abuse of drugs by Respondent and he reported this in writing to Dr. Wilson on March 29, 2006. A later report by Dr. Wilson dated May 2, 2006 notes that Respondent's symptoms were consistent with a cervical facet syndrome with resulting significant somatic pain. Respondent's response to therapy allowed him to reduce his narcotic drug intake. Consistent with Dr. Eaton's report, Dr. Wilson concluded that Respondent's ability to reduce his drug intake is consistent with the absence of addictive disease."

29. Respondent testified that in 15 years of practice as a pharmacist, he had no major misfills of a prescription, no lawsuits and no discipline problems other than this proceeding. He has not had any trouble with the law for any addictive behavior or for driving under the influence. He is very methodical in the way he practices and always double and triple checks what goes out of the pharmacy with a view toward the health and safety of his customers.

30. Respondent testified with remorse when he admitted that his failure to get his pain prescriptions refilled was, in his own words, lazy and stupid. During this time he was waiting for his health insurance, which had been terminated when he changed jobs, to be put back into effect, but he knows that was no excuse for taking drugs without a prescription. He was ashamed of his conduct and knows that taking prescriptions without current and valid prescriptions from his doctors was wrong.

31. Respondent was very forthright and truthful when he was confronted about his conduct at Wal-Mart. He did not try to hide his conduct from the investigating officers. He readily consented to a search of his person, his car, and his home and promptly provided all the drugs that he had diverted to himself. When confronted at Longs Drugs, Respondent again was immediately truthful and promptly admitted his misconduct to the store managers.

32. After the original Accusation was filed in this matter, Respondent voluntarily entered into a written stipulation with Complainant Patricia F. Harris in which he admits the complete truth and accuracy of each and every charge and allegation contained in the original Accusation. This stipulation has been filed in this proceeding.

33. Likewise, after the First Amended Accusation was filed in this matter, Respondent again voluntarily entered into a written stipulation in which he admits the complete truth and accuracy of each and every charge and allegation contained in the First Amended Accusation. This stipulation has also been filed in this proceeding and provides the basis for Factual Findings 2 through 21 and the five Causes for Discipline in paragraphs 22 through 39.

34. Respondent has demonstrated over the past two years that he can continue to work as a pharmacist without incident. Rather than relying on self-medication, Respondent has continued with his medical treatment for his chronic pain, treatment which has actually provided a better result for him and allowed him to reduce his currently prescribed medications.

35. There is no evidence that Respondent has stolen any drugs or personal property, or that he has self-administered any medication, since June 14, 2004. There is no evidence that Respondent was at any time addicted to any medication he self-administered during the period of time from February through June 2004 which self-administration gave rise to this disciplinary proceeding. There is also no evidence of drug abuse, recreational use of drugs, or the illegal sale of drugs by Respondent at any time.

36. Respondent has a stable family life. He shares joint custody of his son with his former wife, Jennifer Haslam, and his son lives with him 50% of the time. Ms. Haslam wrote a letter dated June 5, 2006, to support Respondent stating that he takes his responsibilities to his son very seriously. She reports that Respondent pays monthly child care costs that helps with rent, food, clothing, music lessons, and swim team costs for their son. In addition to monthly expense payments, Ms. Haslam reports Respondent also buys clothing, toys, and the like when their son is in his care. In describing her former husband, Ms. Haslam notes that Respondent is quite involved with their son and is a good father."

Service of the Disciplinary Order

5. On August 1, 2007, the Board served Haslam with its decision by certified mail at his address of record: 4480 Olive Street, La Mesa, CA 91941. Unbeknownst to the Board, sometime in March 2006, Haslam had moved from that address to 5850 Jan Drive, La Mesa, CA 91942. Haslam did not notify the Board of his change of address, as he was required to do by statute and regulation.⁵ The decision was returned by the postal service with a notation that it could not be delivered.

On September 6, 2007, the Board mailed a first class and certified letter to Haslam at his address of record that advised him of an office conference set for September 19, 2007, in Van Nuys, California, intended to review and clarify the terms of his probation. The letters were returned by the postal service with a notation that the forwarding address had expired.

On November 9, 2007, the Board mailed a letter to Haslam at his address of record that directed Haslam to appear in person at an office conference in Placentia, California, on November 20, 2007. The letter was returned by the postal service with the notation that the letter was not deliverable as addressed, and could not be forwarded.

On November 30, 2007, the Board mailed a first class and certified letter to Haslam at his address of record that advised him that he was required to appear in person at an office conference in Placentia, California, on December 13, 2007. The letters were not delivered to Haslam.

On January 5, 2008, Haslam filed a change of address notification with the Board, representing that his new address was 5850 Jan Drive, La Mesa, CA 91942.⁶

⁵ Business and Professions Code section 4100 provides in part:

”(a) Within 30 days after changing his or her address of record with the board or after changing his or her name according to law, a pharmacist, intern pharmacist, technician, or designated representative shall notify the executive officer of the board of the change of address or change of name.

(b) This section shall become operative on January 1, 2006.”

Title 16, California Code of Regulations, section 1704, which had been in effect since August 21, 1966, provides:

“Each person holding a certificate, license, permit, registration or exemption to practice or engage in any activity in the State of California under any and all laws administered by the Board shall file a proper and current residence address with the Board at its office in Sacramento and shall within 30 days notify the Board at its said office of any and all changes of residence address, giving both the old and new address.”

⁶ For much if not all of the period from August 1, 2007, through December 31, 2007, Haslam’s new residence address was known to Deputy Attorney General Rita M. Lane (Deputy Lane), who had prosecuted the previous disciplinary action on complainant’s behalf. However, Deputy Lane was not aware that the Board did not know of Haslam’s new address. When Haslam contacted Deputy Lane sometime in late 2007 and said the Board had not contacted him, she directed Haslam to file a change of address form with the Board.

On February 13, 2008, the Board mailed a first class and certified letter to Haslam at his new address of record. That letter advised Haslam that he was scheduled to appear in person at an office conference in Placentia, California, on February 21, 2008. Haslam received that letter in due course.

6. On February 21, 2008, Joan Coyne (Inspector Coyne), who has been licensed as a pharmacist since 1982, and has been employed by the Board as an inspector since 1995, sat down with Haslam and reviewed the Board's decision and order in detail.

With regard to the period of suspension, Haslam advised Inspector Coyne that during the period he was supposed to have served the suspension, he and his son were on vacation, and he had not worked at all during that period. Inspector Coyne told Haslam that she had evidence that he had worked two days during the period he was supposed to have served the suspension. Inspector Coyne was uncertain if Haslam was eligible to receive credit for serving a suspension during the period he was on vacation, and she advised Haslam that she would speak with the Board's counsel about that issue.

When discussing the probationary condition related to Haslam's participation in the PRP, Inspector Coyne told Haslam that an entity known as Maximus conducted the Board's rehabilitation program and that Maximus arranged for random drug screenings. Inspector Coyne provided Haslam with Maximus' brochure and she directed him to contact Maximus. Haslam told Inspector Coyne that he did not have a substance abuse problem, that he suffered from chronic cervical pain, that his cervical condition required him to take various prescription medications on a daily basis (including Norco and morphine sulfate), and that because he was required to take prescription drugs, random drug screens wouldn't work for him. Inspector Coyne told Haslam that Maximus would make a decision concerning his eligibility for the rehabilitation program.

Because of the frequency with which Haslam represented he was taking large amounts of medications, Inspector Coyne provided Haslam with an opportunity to review Business and Professions Code section 4327, which makes it a misdemeanor for any person to dispense drugs while under the influence of any controlled substance or alcohol. Haslam insisted that he had never practiced while under the influence.

Inspector Coyne told Haslam that his practice needed to be supervised and that his employers were required to provide the Board with written acknowledgments which stated that they were aware of the Board's decision and the probationary order. Inspector Coyne provided Haslam with a document setting forth the information that was required to be contained in quarterly reports. Inspector Coyne advised Haslam that he had not made any cost payments, and that such payments were due in the amount of \$150 per month.

At the conclusion of the interview, Haslam did not ask any questions about what he was required to do, nor did he indicate that there was any portion of the disciplinary order which he did not understand, nor did he state that he was unable to comply with the Board's probationary order for any reason. At the conclusion of the interview with Inspector Coyle, Haslam signed a declaration which stated:

“The terms and conditions of my probation have been fully explained to me by the board representative. I hereby acknowledge that I thoroughly understand these terms and conditions as set forth in the disciplinary action and that failure to comply may result in further disciplinary action.”

Haslam's Convictions

7. On June 18, 2008, Haslam was convicted on his plea of guilty of violating Penal Code section 484/488 (petty theft), a misdemeanor, in the Superior Court of California, County of San Diego, East County Division, in Case No. C279025. In connection with the change of plea form he signed, Haslam admitted the following: “I took property of another with intent to permanently deprive of a value less than \$400, having been previously convicted of this offense.” Haslam was represented by retained counsel.

The court suspended imposition of sentence and placed Haslam on three years summary probation. The court ordered Haslam to pay fines and fees of approximately \$560, to serve one day in custody (with credit given for time served), to complete ten days of public service, to stay 100 yards away from the Pet People Store in La Mesa, and to obey all laws.

8. On October 14, 2008, Haslam was convicted on his plea of guilty of violating Penal Code section 484/488 (petty theft), a misdemeanor, in the Superior Court of California, County of San Diego, East County Division, in Case No. SCE281530. In connection with the change of plea form he signed, Haslam admitted the following: “Took merchandise from Costco.” Haslam was represented by a public defender.

The court suspended imposition of sentence and placed Haslam on three years summary probation. The court ordered Haslam to pay fines and fees of approximately \$220, to serve one day in custody (with one day credit to be given for a book and release on October 26, 2008), and to obey all laws.

Circumstances of the Offenses

9. Haslam denied any wrongdoing in connection with the petty theft occurring at the Pet People Store.⁷

The incident report prepared by the La Mesa Police Department concerning the event at the Pet People Store established that on March 20, 2008, Haslam drove his 1999 Toyota 4

⁷ *Arneson v. Fox* (1980) 28 Cal.3d 440 held that in an administrative disciplinary proceeding, an administrative agency may rely on a plea and the conviction based on that plea to establish a reasonable and substantial relationship to licensed activities. An applicant or licensee may introduce evidence of extenuating circumstances by way of mitigation or explanation, as well as any evidence of rehabilitation, but an inquiry into the circumstances surrounding the offense should not form the basis of impeaching a prior conviction. Regardless of the various motives which may have impelled the plea, the conviction based thereon stands as conclusive evidence of applicant's guilt of the offense charged.

Runner to the Pet People Store outlet on University Avenue in La Mesa. A witness told the investigating officer that she observed Haslam take a 40-pound bag of dog food from an outside display area and walk with it to the parking lot where Haslam's truck was parked. The witness asked Haslam if he had a receipt for the dog food. Haslam said "No." A fracas ensued, which resulted in Haslam driving out of the parking lot. The police department was notified and responded to the address where the truck was registered.

The police contacted Haslam, who denied stealing a bag of dog food. Haslam was arrested. When he was interviewed at the police station, Haslam told the investigating officer that he had no idea why there was a bag of dog food next to his truck when he was confronted in the parking lot. Haslam stated that the witness who confronted him began beating on his truck, resulting in his decision to leave the parking lot. Haslam told the officer that he went home and was trying to get some sleep before his girlfriend came over that evening, and that he did not ignore the efforts of the police to contact him at his house.⁸

At the disciplinary hearing, Haslam claimed that it was his custom and habit to drive his truck to the display area where dog food was located, to load a bag of dog food into the rear of his truck, and to then go inside the store to pay for the dog food. He claimed that was what he planned to do before the disturbance in the parking lot. To supplement and explain his testimony, Haslam produced a handwritten statement from a Pet People Store assistant manager dated March 28, 2008, which stated that Pet People Store was not interested in any charges being filed against Haslam, and a typewritten statement from a Pet People Store employee dated May 2, 2008, to the effect that she had, at some unspecified point in time, observed Haslam "pull up to the fire lane and park temporarily to load first and then purchase and large and heavy (40-50 lb.) bag of dog food."

Haslam asserted at the disciplinary hearing that, "I was accosted by an off-duty law enforcement employee" who "was right up in my face" and "I said this is too crazy" after which the off duty law enforcement employee beat upon the window of his truck, causing him to leave the parking lot. Haslam suggested that he was a victim of zealous prosecution that was designed to cover up the off duty employee's misconduct.

Haslam's claim of factual innocence was unavailing. In his change of plea form, Haslam represented that he was entering his guilty plea freely and voluntarily, that he was sober and his judgment was not impaired, that he was giving up his right to a speedy trial,

⁸ *Lake v. Reed* (1997) 16 Cal.4th 448 considered what kinds of hearsay evidence are admissible under the Government Code section 11513 in an administrative proceeding and, more specifically, the extent to which statements contained in a peace officer's narrative report were admissible. The California Supreme Court concluded that a law enforcement officer's direct observations that had been memorialized in the officer's report were admissible under Evidence Code section 1280, the public employee records exception to the hearsay rule, and that that portion of the report was sufficient to support a factual finding. The opinion concluded that admissions by a party that were memorialized in such a report were admissible under Evidence Code section 1220 and were also sufficient to support a factual finding. Citing Government Code section 11513, the Supreme Court concluded that several other hearsay statements set forth in the officer's report could be used for the purpose of supplementing or explaining other evidence, but that they were not sufficient by themselves to support a factual finding unless – as with the public employees records exception to the hearsay rule and the party admission exception to the hearsay rule – such hearsay statements would be admissible over objection in civil actions.

that he was giving up his right to confront and cross-examine witnesses, that he was giving up his right to remain silent, and that he was giving up his right to present evidence in his own behalf. He specifically admitted that on the date charged, "I took the property of another with intent to permanently deprive of a value less than \$400, having been previously convicted of this offense."

10. The arrest report prepared by the La Mesa Police Department concerning the event at Costco established that on April 18, 2004, Haslam was placed under citizen's arrest by a Costco loss prevention officer who claimed that he had observed Haslam remove an electric shaver from its packaging, wrap in it a pair of shorts, stuff the razor and shorts down the front of his pants, after which Haslam proceeded to a cash register where he paid for all the items in his cart but not the items he had hidden. Haslam then reportedly exited the main doors. The loss prevention officer placed Haslam under citizen's arrest and contacted the La Mesa Police Department. The investigating officer who responded to the incident at Costco transported Haslam to the La Mesa Police Department, where Haslam was booked.

After waiving his Miranda rights, Haslam told the officer that he saw the electric razor and decided to steal it rather than to pay for it, thinking that Costco would not notice that one was missing. Haslam stated that after he removed the electric razor from its packaging, he decided he "needed to wrap it in something soft," so he took a pair of shorts from a shelf and wrapped the razor in the shorts. Haslam told the officer he then hid the stolen merchandise in his pants. He said that as he walked out of Costco without paying for the merchandise, he felt guilty, but he did not get a chance to return to pay for the stolen items as he planned because he was confronted by the loss prevention officer. Haslam said, "It was stupid, I wasn't thinking," according to the officer's report.⁹

Haslam testified that the officer's report was in error, that he did not leave the building before he was stopped by the loss control officer, and that he was stopped before he could return to pay for the merchandise. In this disciplinary hearing, Haslam testified that at the time of the theft, "I was taking a fair amount of pain medication and my thinking was not so clear." Haslam was also critical of the representation he received from his court-appointed attorney in his testimony in this proceeding.

Haslam's claim of factual innocence was unavailing.

Relevance of the Convictions

11. Inspector Coyne testified that pharmacists must be scrupulously honest. Thus, each petty theft conviction was substantially related to the qualifications, functions and duties of a registered pharmacist.

Haslam's two recent petty theft convictions, when considered with Haslam's prior conviction in March 2004 for grand theft (involving his diversion of controlled substances from a Wal-Mart pharmacy for his own use), involved a disturbing pattern of dishonesty that

⁹ The report was received under *Lake v. Reed, supra*.

cannot be ignored. The occurrence of three theft-related convictions within a period of approximately five years evinces a lack of honesty that is inconsistent with the good moral character required of a registered pharmacist.

Specific Violations of Probation

12. Condition 22 of the probationary order provided in part:

“22. 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 a 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.”

Haslam violated specific conditions of probation as set forth hereafter.

13. Condition 1 of the probationary order provided in part:

“1. Actual Suspension.

As part of probation, respondent is suspended from the practice of pharmacy for thirty (30) days beginning the effective date of this decision.”¹⁰

Haslam did not receive the Board’s Decision After Nonadoption before he was to serve the period of suspension (although he was constructively served with that decision) and, thus, Haslam’s violation of condition 1 was unintentional. Haslam’s claim that he should receive credit for 28 of the 30 days of suspension that he was supposed to serve was well founded; nothing in condition 1 prevented taking a vacation during a period the suspension is to be served.

14. Haslam did not serve the full period of suspension, and he thereby violated condition 1 of his probation. In the grand scheme, this violation of probation was not critical in reaching the decision to revoke Haslam’s license.

¹⁰ Respondent pointed out that this condition of probation was not set forth in the administrative law judge’s proposed decision. That matter is irrelevant, since Haslam did not establish that he received, much less relied upon, the administrative law judge’s proposed decision.

15. Condition 3 of the probationary order provided:

“3. 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:

- o an arrest . . . for violation of any provision of the Pharmacy Law . . .
- o a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- o a conviction of any crime. . . .”

16. Haslam was convicted of petty theft on June 18, 2008, and he was convicted of petty theft again on October 14, 2008. These convictions conclusively established that Haslam did not obey all laws as required by condition 3 of his probation. In addition, Haslam did not report the fact of either conviction to the Board, as he was required to do under condition 3 of his probation.

Even apart from the fact that Haslam should have known he was required to obey the law as a good citizen, these convictions occurred after Haslam’s meeting with Inspector Coyne on April 21, 2008, and he thus knew they constituted a violation of his probation. His criminal conduct and his failure to disclose the convictions were intentional.

17. Condition 4 of the probationary order provided:

“4. Psychotherapy.

Within 30 days of the effective date of this decision, respondent shall submit to the board, for its prior approval, the name and qualifications of a licensed mental health practitioner of respondent’s choice. Should respondent, for any reason, cease treatment with the approved licensed mental health practitioner, respondent shall notify the board immediately and, within 30 days of ceasing treatment, submit the name of a replacement psychotherapist or licensed mental health practitioner of respondent’s choice to the board for its prior approval.

Therapy shall be at least once a week unless otherwise determined by the board. Respondent shall provide the therapist with a copy of the board’s accusation and decision no later than the first therapy session. Respondent shall take all necessary steps to ensure that the treating therapist submits written quarterly reports to the board concerning respondent’s fitness to practice, progress in treatment, and to provide such

other information as may be required by the board. If the treating therapist finds that respondent cannot practice safely or independently, the therapist shall notify the board immediately by telephone and followed up by written letter within three working days.”

18. Haslam did not notify the Board of the name and qualifications of a licensed mental health practitioner within 30 days of the effective date of the Board’s decision.

Haslam claimed any immediate violation of condition 4 was excused or mitigated by his failure to know of this condition until he met with Inspector Coyne on April 21, 2008. Haslam also claimed that a letter that was provided to the Board from Jennifer Meesook Park, M.D., dated May 28, 2008, on stationary from Kaiser Permanente, in which she was identified as a psychiatrist and stated that Haslam was her patient, substantially complied with condition 4 of the probationary order. There was no substantial compliance.

Haslam was required to provide the Board with the name and qualifications of a licensed mental health practitioner to enable the Board to investigate and provide approval. He failed to meet this obligation. Dr. Park’s letter did not set forth her qualifications. Dr. Park did not report that she had been provided with a copy of the Board’s accusation and decision, as required before commencing therapy. Dr. Park’s letter did not express any understanding of her obligation to file quarterly reports with the Board concerning Haslam’s fitness to practice, and there was no evidence she ever did so. Dr. Park’s letter did not mention that she and Haslam were going to engage in therapy at least once a week; in fact, no therapy program was mentioned. And, it is of concern that in her evaluation of Haslam’s current situation, Dr. Park’s letter did not reference Haslam’s arrest for the Pet People Store petty theft, which occurred about ten days before her letter was dated.

Haslam did not substantially comply with condition 4 of the probationary order after he became aware of that condition.

19. Condition 5 of the probationary order provided:

“5. 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 or her current contract and any subsequent addendums with the PRP. Probation shall be automatically extended until respondent successfully completes his or her 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.”

20. Haslam claimed any immediate violation of condition 5 was excused or mitigated by his failure to know of this condition until he met with Inspector Coyne on April 21, 2008. At the April 21 meeting, Inspector Coyne told Haslam that the Board contracted with Maximus to operate its rehabilitation program and that he needed to contact Maximus immediately. Inspector Coyne provided Haslam with a Maximus brochure. Haslam told Inspector Coyne he did not have a drug or alcohol problem and that he did not need to be in the program. Inspector Coyne advised Haslam that his suitability for the program was an issue that Maximus was required to determine.

Haslam contacted Maximus on March 20, 2008 and arranged for an evaluation.

Haslam met with a Maximus representative on April 2, 2008. Haslam told the Maximus case manager that he was taking prescribed medications including MS Contin (three tabs twice a day), Norco (two tabs three to four times a day), Effexor (one tab per day), Trazodone (one tab per day), Xanax (one tab as needed), as well as using Zyrtec, Pseudoephedrine, Flonase, Atrovent Nasal Spray and Nexim. The case manager advised Haslam that he could not participate in the Maximus rehabilitation program if he continued to take mind-altering substances, such as Norco, Vicodin and Xanax, but that Maximus would work with Haslam, his physicians, and a pain management specialist to guide him in his pain management needs. Haslam refused to proceed with the interview, and the case manager advised the Board’s probation representative of that by letter dated April 8, 2008.

On April 10, 2008, Virginia K. Herold, the Board’s Executive Officer, issued a Notice of Suspension based upon Haslam’s refusal to join the PRP. The suspension has been in effect since then.

After Haslam received notification of his suspension, he entered the PRP. On July 28, 2008, Haslam attended his first Recovering Professionals Diversion Health Support Group meeting. He surrendered 41 Alprazolam tablets, 123 Vicodin/Norco tablets, and 152 morphine sulfate tablets to Duane Rogers, Psy.D. (Dr. Rogers), the marriage and family therapist who facilitates support group meetings. Since entering the PRP, Haslam has attended health professional diversion meetings supervised by Dr. Rogers twice weekly. In some fashion, Haslam came to believe that he was permitted to use opioid-like medications to resolve acute pain resulting from flare ups if he provided notice following his use. The basis of his purported belief was not established. After a positive drug test in September 2008, Haslam submitted documentation to show that he had been given a prescription to use such medications and he provided a schedule listing his use of such medications. Haslam was told that he was required to obtain approval before using mind-altering medications, not after. In February 2009, Haslam took Ultram,¹¹ a non-controlled pain medication prescribed

¹¹ Ultram (generic name tramadol) is a narcotic-like pain relieve used to treat moderate to severe pain. Tramadol is not considered a controlled substance in the United States and it is available with a normal prescription. Tramadol is available over the counter without a prescription in a few countries.

by his physician, and he thereafter claimed that he and the physician who prescribed Ultram were not aware that Maximus did not permit its use.

As a part of the Maximus program, Haslam attends AA and NA 12-step meetings daily and he participates in a Kaiser substance abuse program.

Haslam testified he previously had an opioid dependency resulting from his need to treat his chronic cervical pain, but he asserted that he was not a drug addict. Haslam denied using drugs for recreational purposes. Haslam claimed he no longer takes any mind-altering substances.

21. Haslam's late entry into the PRP constituted a violation of condition 5. Haslam's participation since joining the PRP has been characterized by begrudging but slow and steady progress, with notable failures related to his use of non-approved medications in September 2008 and February 2009. The level of Haslam's compliance and his excuses for violating the terms of his agreement with Maximus do not support his assertion that he substantially complied with condition 5 of the probationary order, although his progress in the PRP is encouraging.

22. Condition 6 of the probationary order provided:

"6. Random Drug Screening.

Respondent, at his or her 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."¹²

23. Maximus delegated the random drug screen testing to Compass Vision. Haslam tested positive for Vicodin, a prohibited mind-altering substance, following a random drug test conducted by Compass Vision on September 15, 2008. After he was advised of the positive drug test, Haslam admitted he had taken Vicodin, asserting that he did so to relieve a flare up of cervical pain. Prior approval was required under the Maximus

¹² The administrative law judge did not include this condition of probation in his proposed decision. Again, since Haslam did not rely on the proposed decision, and since good cause existed to impose this condition of probation, the administrative law judge's failure to include this condition was irrelevant. The same is true for the other conditions of probation imposed by the Board in its decision but not included in the administrative law judge's proposed decision.

guidelines to take Vicodin and other mind-altering substances, and Haslam's positive drug test constituted a violation of condition 6. Haslam failed to establish any reasonable basis for his claimed mistaken belief that he was authorized to take Vicodin.

In addition to testing positive for a banned substance on September 15, 2008, Haslam failed to appear for a Compass Vision drug test scheduled for September 30, 2008. Haslam claimed that his failure to appear was a result of a mix up involving his credit card company and Compass Vision. In a letter to Compass Vision dated November 21, 2008, Haslam represented that his credit card used to pay Compass Vision "was put on hold inadvertently" as a result of an identity theft. Haslam wrote that when he was told to appear on September 30, his account could not be charged. Rather than paying by cash or with a cashier's check, Haslam declined to appear. In his November 2008 letter, Haslam stated he took full responsibility for the failure to appear.

Haslam's explanation of his failure to appear would have been more reasonable had it not been offered with a host of excuses for his noncompliance with other conditions of probation. Haslam failed to establish any reasonable basis for his failure to appear for a September 30 drug test, which also violated condition 6 of his probation.

24. Condition 8 of the probationary order provided:

"8. 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 or her supervisor submit notification to the board in writing stating the supervisor has read the decision in case number 2797 and is familiar with the level of supervision as determined by the board.

If respondent changes employment, respondent shall have his or her 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 2797 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.”

25. Haslam violated condition 8 in that his supervisor, if he had one, did not submit notification to the Board in writing that the supervisor had read the Board’s decision and was familiar with the level of supervision required.

26. Condition 10 of the probationary order provided:

“10. 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.”

27. Haslam claimed the initial violations of condition 10 were excused or mitigated by his failure to know of this condition until he met with Inspector Coyne on April 21, 2008. On April 21, Coyne provided Haslam with a document entitled “Quarterly Report” (Exhibit 22), which detailed the information required to be included in such a report¹³ and required that the report be signed and dated (although it did not state the report was to be signed under penalty of perjury).

Haslam provided an undated and unsigned statement for the period “October 2007 and January 2008 through February 21st 2008.” He provided his name, current address, and telephone number. He provided the names of the staffing agencies employing him and the names of “supervisors” whose telephone numbers were outside of the 619 and 760 area codes. He stated the hours he worked varied from week to week. He stated that he served 28 days of the 30 day suspension. He stated he was current in his continuing education. He stated his other professional activities included “attending CE lectures on recent advancement in AIDS therapy, depression and diabetes management.” He stated that he did not take medications to “get high” or “buzzed” and that his use of medications was prescribed and appropriate. He asserted that the Board’s Decision After Nonadoption failed to include mitigating evidence and if he had known it would be so harsh he would have submitted an argument. He claimed that it was not his fault that a “stipulation was not written up correctly to the Boards [sic] liking” or that the matter was put off “because they changed Deputy Attorney [sic] from Robert Newlove to Rita Lane.” He claimed he was denied due process because the “original complaint [was] posted for public view on line.”

Haslam provided a typewritten, unsigned “quarterly report” dated June 2008 addressed to Virginia Herold which stated that his license had been suspended, that his

¹³ Exhibit 22 required a probationer to provide his name, current address, and telephone number; the name of his employer and other information related to his employer, including the name of his supervisor; the number of hours worked in the practice of pharmacy; if not working in pharmacy, the nature of the work being performed; a description of how the probationer is remaining current with regard to continuing education; professional activities, and whether the probationer has any questions.

situation was "unique," and in which he requested the opportunity to return to work. He advised that he was having financial difficulties and that he had custody of his son about 50 percent of the time. He said he would advise the Board of the agencies and persons with whom he interviewed if he were permitted to return to practice, asserting that his "more than 2 month suspension has been sufficient enough time." He stated he was attending a few CE lectures in San Diego.

Haslam provided a handwritten letter to Board representatives dated February 2, 2009, which stated that he had sent paperwork to show his compliance with his probationary terms, but that "some of my file is not making its way to the enforcement committee as my case manager at Maximus [A.M.] has had trouble coordinating with them." He stated that he had been sending \$150 monthly.

Haslam provided a typewritten, unsigned "quarterly report" for March 2009 which provided his name and current address and telephone number. Haslam advised that he had been in the Maximus program since July 31, 2008, and had been doing well but for "some mishaps along the way. . . ." He described the meetings with Dr. Rogers. He stated he was current in the continuing education. He stated he had done some volunteer work at an animal shelter.

Haslam provided a typewritten, unsigned "quarterly report" for June 2009 which provided his name and current address and telephone number. Haslam provided much of the same information that was provided in the March 2009 report. He stated that he and his sponsor were working the 12 steps and that he was "determined not to steal and not to possess anything that should belong to others." He stated he recently increased his commitment to music. He stated that he was committed to relieving his pain through the modalities approved by Maximus, including injections under fluoroscopy, topical ice, heat, stretching, physical therapy, yoga, hydrotherapy, and approved medications (e.g., NSAIDS, ibuprofen, Tylenol, etc.) He expressed the hope that the Board would see he was on the right path and that he was capable and worthy of returning to work.

28. Haslam was placed on probation on August 31, 2007. Quarterly reports were due for the quarters ending September 2007 and December 2007. Quarterly reports were due for the quarters ending March 2008, June 2008, September 2008 and December 2008. Quarterly reports were due March 2009 and June 2009.

None of the reports were signed, as required. Assuming that Haslam's first report covered the period from August 31, 2007, through June 31, 2008, then four more quarterly reports were due. The report dated June 2008 was technically noncompliant. There was no report for September 2008 or December 2008. The February 2009 letter was not a quarterly report.¹⁴ Haslam provided reports for March 2009 and June 2009 which were technically noncompliant.

¹⁴ Even if the letter were intended or is construed as a quarterly report, it failed to mention the period it was supposed to cover.

Haslam violated condition 10 of his probation. He did not substantially comply with condition 10, although it appears he began taking his obligation to comply with his obligation to file quarterly reports more seriously in March 2009.

29. Condition 14 of the probationary order provided:

“14. Notice to Employers.

Respondent shall notify all present and prospective employers of the decision in case number 2797, OAH No. L2005070878 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 or her 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 2797, OAH No. L2005070878.

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 terms and conditions of the decision in case number 2797, OAH No. L2005070878 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.”

30. Haslam claimed any violation of condition 14 was excused or mitigated by his failure to know of this condition until he met with Inspector Coyne on April 21, 2008.

Coyne provided a document entitled “Notice to Employer” (Exhibit N) which he claimed substantially complied with condition 14. It did not.

Providing an employer with the Board’s decision supplies an employer with specific factual information concerning the basis for the suspension, as well as the specific terms of probation. Exhibit N did not provide any factual basis for the Board’s decision, other than to state that the decision was posted in the January 2008 issue of the *Script*.¹⁵ While general terms of probation were mentioned in Exhibit N, (e.g., “supervised practice,” “notification to employers”), no details were provided.

The “notice” Haslam claimed he provided to his employers did not constitute substantial compliance with condition 14; indeed, that document served to avoid actual notice being given to employers.

¹⁵ The disciplinary action reported in *Script* does not contain any factual details, other than the fact of discipline and the general nature of the discipline imposed.

31. Condition 16 of the probationary order provided in part:

“16. Reimbursement of Board Costs.

Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$9,000.00. Respondent shall make said payments as follows: In the event Respondent is not financially able to make a single payment of \$9,000.00, he may; make periodic payments during his 60 months of probation at the rate of \$150 per month. . . .”

32. Haslam made some payments in satisfaction of the Board’s costs of investigation and prosecution following his April 2008 meeting with Inspector Coyne, but he admitted that his payments were not current due to his dire financial circumstances and because “no one was tracking the payments.”

Haslam failed to comply with condition 16, although his financial circumstances provided some measure of mitigation for that violation.

Evidence in Explanation, Extenuation, Justification and Rehabilitation

33. Haslam was born in Philadelphia, Pennsylvania, in February 1960. His family moved to Hawaii, where Haslam attended elementary school. His family moved to San Diego County, where Haslam attended junior and senior high school. Haslam graduated from Mission Bay High School in 1978, and attended community colleges and the University of California, San Diego, thereafter. He did not obtain an undergraduate degree before he enrolled in the University of the Pacific’s School of Pharmacy. Haslam graduated from the UOP School of Pharmacy in 1990 with a Pharm.D. degree.

After his licensure, Haslam was employed by Kaiser, at its Zion facility in San Diego, in 1991 and with Thrifty and Sav-On Drugs in San Diego from 1992 through 1997. He worked for K-Mart as a pharmacist from 1998 through 1999. He worked for Sav-On from 1999 through 2001. Around the time he was working for Sav-On, Haslam and his wife separated, custody and visitation issues arose, and Haslam sought employment with staffing agencies to obtain more flexible hours. Since 2001, Haslam has worked for several staffing agencies including Rx Relief, Pharm Aid, and Asereth. Haslam testified that his employment with these staffing agencies “worked well” for him. He said about 70 percent of his time has been spent working in community pharmacies, where he very much enjoyed patient counseling. He did not describe his level of supervision, if any, in those pharmacies.

34. In mid-1997, Haslam was involved in a high speed rear end collision on Highway 8 in San Diego, which aggravated a pre-existing cervical condition. His car was a total loss as a result of the impact, but Haslam was not taken from the scene by ambulance. He sought medical treatment the following morning at Kaiser. Haslam was referred to an orthopedic surgeon for evaluation. An MRI was obtained that showed some narrowing of the foramina in the cervical and thoracic spine. Haslam obtained physical therapy, was

referred back to his primary care physician, Dr. Theodore Greer, an internist, who in turn referred Haslam to a pain specialist.

35. To support his claim that he was not addicted to pain medication, Haslam produced a letter that was (curiously) dated March 29, 2006, signed by Gary Eaton, M.D. (Dr. Eaton), a psychiatrist and pain specialist.

That letter stated that Dr. Eaton evaluated Haslam on March 29, 2006, for a chronic pain condition and that Haslam "has been on and off opioids since a motor vehicle accident in 1997." Haslam told Dr. Eaton about his theft from a pharmacy. Ironically, Dr. Eaton wrote, "Interestingly throughout this period of time, there does not appear to be any signs of additional abuse or illicit or illegal use of drugs, selling of drugs, etc." Haslam reported he quit his job ten days before his meeting with Dr. Eaton because of some problems and hassles he was having, but nothing to do with his job as a pharmacist, per se.

36. With regard to the incident at Wal-Mart giving rise to the Board's previous disciplinary action, Haslam testified that his conviction was merely a result of his failure to return to his physician to refill a prescription for pain medication. He estimated that he took at least 100 tablets without authorization over the course of a month before he was caught.

With regard to the incident at Long's giving rise to the Board's previous disciplinary action, Haslam stated that he did not steal a cordless phone or a boom box. Haslam did not comment upon the factual finding in which he admitted he diverted about 450 tablets of prescription medications for his own use to alleviate an existing medical condition.

37. Haslam offered no explanation for his failure to provide the Board with his new address, other than to claim he was not aware that he was required to do so and he believed the Board had his new address because he exchanged written communications with Deputy Lane, who used his new address. He found it "strange" that the Board made no effort to track him down or to call him on his telephone number or to reach him through his email address, neither of which had changed after he moved.

Haslam testified that he left many messages with the Board asking what he was supposed to do to comply with probation, but his questions were not answered.¹⁶ Haslam admitted that he never told anyone at the Board about his petty theft convictions.

38. Haslam proclaimed his factual innocent in the petty theft conviction arising out of the incident at the Pet People Store and claimed he had no intent to commit theft at the Costco, that he was stopped before he left the Costco main doors, and that intended to return and pay for the items he had hidden.

¹⁶ Haslam produced telephone records showing that he telephoned the Board at its Sacramento office approximately 50 times from January 2, 2008 through November 13, 2008, with most calls lasting one minute but with five calls lasting more than ten minutes. The reason for these calls, and what was said, was not established.

39. Haslam testified that he only took pain medications that had been prescribed and that he never took medications to get high. Haslam testified he remained "opioid dependent" until late July 2008 in effort to control his cervical pain, and claimed that he had not taken any pain medication since then. He recanted that testimony when he was reminded of the positive test result in September 2008; he testified that he took limited amounts of pain medication on that occasion and only for the flare up he was experiencing.

40. To further support his claim that he was not abusing prescription drugs, Haslam produced three letters from Malay Myaing, M.D. (Dr. Myaing), his primary care physician at Kaiser.

The first letter, dated January 31, 2008, stated that Haslam was under Dr. Myaing's care and was taking Morphine (60 mg three times a day) and Norco (10-325 2 tabs every 6 hours as needed). Dr. Myaing wrote that Haslam was scheduled for a nerve root burn as the next step in his pain control. Dr. Myaing opined that it was not necessary for Haslam "to go to rehabilitation program" and that she was "positive that all narcotic pain medications will be tapered off to as needed or eliminated completely."

The second letter, dated April 24, 2008, stated that Haslam's pain was being "stably controlled on Morphine 60 mg three times a day and Norco 10-325 2 tabs every 6 hours as needed." Dr. Myaing reported that Haslam was "trying hard" to taper off his medication.

The third letter, dated June 10, 2008, stated Haslam had undergone significant changes, including coming off all narcotic pain medications. Dr. Myaing wrote that local injections were being administered, but Haslam continued to have significant pain.

41. A CURES report was submitted by complainant which declared that Dr. Myaing had prescribed 240 tablets of APAP/Hydrocodone Bitartrate 10-325 to Haslam under prescription number 183446426 on August 29, 2008, that she had prescribed another 240 tablets of APAP/Hydrocodone Bitartrate 10-325 to Haslam under prescription number 183446426 on September 19, 2008, and that she had prescribed another 240 tablets of APAP/Hydrocodone Bitartrate 10-325 to Haslam under prescription number 183454989 on September 19, 2008. The validity of the information contained in this CURES report was not established.

Haslam denied receiving more than one prescription for APAP/Hydrocodone Bitartrate from Dr. Myaing; he testified he could not remember the number of pain tablets that were dispensed under that prescription.

Haslam testified he briefly took the pain medication in September 2008 (which would explain the positive drug screen obtained on September 15, 2008) for a flare up of his cervical pain. He stated that he had not taken any opioid medications since then.

Haslam did not provide any correspondence from Dr. Myaing that explained the reason that she prescribed the pain medication in 2008, how many prescriptions she issued, or whether she issued and refilled more than one prescription.

42. In July 2008, Haslam began participating in a Chemical Dependency Recovery Program at Kaiser, which is overseen by Kam Ching, LCSW (Ching). According to Haslam, he entered the Kaiser chemical dependency program at the direction of Maximus. Haslam completed the initial nine week Phase I portion of the program, Phases II and III thereafter, and he continues to attend the chemical dependency program three times a month. Ching signed a declaration under penalty of perjury that supplemented Haslam's testimony. It stated that Haslam was doing "remarkably well" considering Haslam's chronic cervical condition and that he was utilizing alternative therapies other than mind-altering drugs to control his pain. Ching's declaration did not mention Haslam's use of opioids in September 2008 or address Haslam's use of Ultram in February 2009.

43. Haslam's ex-wife provided a "To Whom It May Concern" letter dated June 16, 2009, which was highly supportive of Haslam and his efforts remain clean and sober. She believed Haslam had made significant changes in his life.

44. Haslam testified that he was truly remorseful for all that had occurred, that he took full responsibility for his misconduct, and that he wanted to practice pharmacy because he loved the profession, he believed himself to be competent, and he had never posed any danger to the public. Haslam testified that he had no patient complaints to his knowledge, that he had not dispensed drugs improperly (other than to himself), and that he was fit and safe to practice. Haslam testified that his sobriety date was either July 28, 2008 or July 31, 2008 (he identified each date as his sobriety date at different points during his testimony), that he obtained a 12-step sponsor (Louis V.) after he began the Maximus program, that he and his sponsor worked the 12 steps of recovery once, and that he and his sponsor were once again working the steps and that he was on step five. Haslam had some difficulty recalling what was involved specifically with step four, but he seemed to remember it was a "one day at a time" program.

A declaration from Louis V., Haslam's sponsor, supplemented and explained Haslam's testimony. Louis V. confirmed Haslam's regular attendance at AA meetings and his volunteer work. Louis V. commented that Haslam had "come a long way since starting this program." He believed Haslam had shown "genuine remorse" and supported Haslam's effort to retain his license.

45. Clear and convincing evidence did not establish that Haslam, in fact, ever practiced pharmacy under the influence of medications on a specific date at a specific jobsite and to the extent that he was unable to perform his duties in a manner required of a reasonable and prudent pharmacist. While an inference may be drawn that he did so, insufficient evidence was offered to establish that conclusion in this disciplinary matter.

Disciplinary Guidelines

46. In accordance with Title 16, California Code of Regulations, section 1760, the Board established disciplinary guidelines to be used by persons involved in and affected by the disciplinary process including the general public, attorneys from the Office of the

Attorney General, administrative law judges from the Office of Administrative Hearings, defense attorneys, board licensees, the courts, Board staff and Board members who review and vote on proposed decisions and stipulations.

These guidelines are to be used in disciplinary action, but the Board recognizes that individual cases may necessitate a departure from the guidelines. In such cases, mitigating circumstances must be detailed.

The Board seeks recovery of all investigative and prosecution costs in all disciplinary cases because the Board believes that the burden of paying for disciplinary cases should fall on those whose conduct requires investigation and prosecution, not upon the profession as a whole.

In determining whether a minimum, maximum, or an intermediate penalty should be imposed, the Board recommended that certain factors such as the following be considered: Actual or potential harm to the public; actual or potential harm to any consumer; prior disciplinary record, including level of compliance with disciplinary orders; prior warnings of record(s), including citation(s) and fine(s); number and/or variety of current violations; nature and severity of the act(s), offense(s) or crime(s) under consideration; mitigating evidence; rehabilitation evidence; compliance with terms of any criminal sentence; overall criminal record; if applicable, evidence of proceedings for case being set aside and dismissed pursuant to section 1203.4 of the Penal Code; time passed since the act(s) or offense(s); whether the conduct was intentional or negligent, demonstrated incompetence, or, if the respondent is being held to account for conduct committed by another, the respondent had knowledge of or knowingly participated in such conduct; and the financial benefit to the respondent from the misconduct. No single or combination of the above factors is required to justify the minimum and maximum penalty as opposed to an intermediate one.

Under the guidelines, the Board provided the following examples of appropriate evidence a respondent may submit to demonstrate his or her rehabilitative efforts and competency: Recent, dated written statements and/or performance evaluations from persons in positions of authority who have on-the-job knowledge of the respondent's current competence in the practice of pharmacy including the period of time and capacity in which the person worked with the respondent; recent, dated letters from counselors regarding the respondent's participation in a rehabilitation or recovery program should include at least a description and requirements of the program, a psychologist's diagnosis of the condition and current state of recovery and the psychologist's basis for determining rehabilitation; recent, dated letters describing the respondent's participation in support groups, (e.g., Alcoholics Anonymous, Narcotics Anonymous, professional support groups, etc.); recent, dated laboratory analyses or drug screen reports, confirming abstinence from drugs and alcohol; and recent, dated physical examination or assessment report by a licensed physician, confirming the absence of any physical impairment that would prohibit the respondent from practicing safely.

At the one end of the disciplinary spectrum is a Category I violation, a relatively minor but potentially harmful violation. For this type of violation, the minimum recommended sanction is revocation, stayed, with one year probation.

In the middle of the disciplinary spectrum are Category II and Category III violations, violations involving unprofessional conduct, violations that pose a serious risk of harm to consumers, and criminal convictions. For these violations, the minimum recommended sanction is revocation, stayed, with at least three years probation.

At the far end of the disciplinary spectrum are the Category IV violations. The guidelines provide an example of such a violation as one involving a respondent who violates the terms and conditions of probation from a previous disciplinary order. The recommended sanction for a Category IV violation is an outright revocation; there is no other sanction that is recommended.

The Appropriate Measure of Discipline

47. The evidence established Haslam engaged in conduct resulting in a Category IV violation. The recommended sanction is an outright revocation. That sanction is appropriate in this disciplinary matter.

Until at least very recently, Haslam was taking pain medications in an amount necessary to provide him with 24 hour coverage, even if he did not take pain medication while he was working as a pharmacist. The extent and frequency of his use resulted in potential harm to the public. Haslam engaged in the diversion and self-administration of pain medication from pharmacies where he worked from at least February 2004 through June 2004, for which the Board revoked Haslam's license, stayed the revocation, and placed Haslam on probation for five years. Haslam's compliance with terms and conditions of that probation has been woeful. He was twice convicted of petty theft, intentionally deceitful acts. He failed to file all quarterly reports as required, and the quarterly reports that he filed were noncompliant. Haslam was less than eager to participate in the PRP, first declining to participate, and then agreeing to participate only after his license was suspended. While he was in the PRP program, Haslam tested positive for the presence of an opioid in September 2008, used a prohibited substance in February 2009, and missed one random drug screen. Haslam has not engaged in ongoing psychotherapy with a Board approved psychotherapist, as required, although he saw a psychiatrist at Kaiser on at least one occasion in May 2008. Haslam did not provide a current report from a psychologist or any other approved mental health care provider setting forth a diagnosis, a prognosis, and the psychologist's basis for determining Haslam's level of rehabilitation. Haslam is not current in his payment of costs. Quite simply, Haslam's performance on probation, while improving, can only be deemed to be noncompliant.

The mitigating evidence Haslam produced consisted of his testimony and letters from physicians, counselors, a sponsor, and an ex-wife. He did not produce a current letter from any psychotherapist. Haslam's first criminal conviction (grand theft) has not been expunged. Haslam remains on probation for the two petty theft convictions, and his second petty theft

conviction was in direct violation of the probation imposed as a result of the first petty theft conviction which required Haslam to obey all laws.

Haslam admitted he violated some of the terms and conditions of his probation. He provided a variety of excuses for the violations, none of which was particularly compelling. Throughout his probation, Haslam has demonstrated a seemingly helpless and essentially uncooperative approach towards meeting probationary obligations. Haslam's conduct while on probation has evidenced an unwillingness or an inability to comply with the Board's reasonable directives.

No sanction other than an outright revocation is supported by this record.

Costs of Prosecution

48. The deputy attorney general who prosecuted this action submitted a declaration in which she stated that the Department of Justice billed the Board slightly more than \$10,000 for legal services provided. The time spent was reasonable, as was the hourly rate charged for legal services. Counsel for complainant was well prepared and was very professional. There was no objection to the amount of costs.

49. Haslam has not worked as a pharmacist since the order of suspension was issued. He recently began working as part-time music instructor, teaching drumming and percussion. He hopes to join a band. Haslam submitted various bank records, which confirmed that Haslam currently lacks the resources to satisfy any order awarding costs.

50. The determination of costs in this matter does not impact the order of costs imposed in the previous disciplinary matter.

LEGAL CONCLUSIONS

Imposing License Discipline

1. The suspension or revocation of a license to engage in a profession is not penal; its purpose is to protect the public from incompetence and lack of integrity in those practicing the profession. The business of compounding prescriptions and selling drugs is intimately connected with and has a vital relationship to the health, safety, and welfare of the public. Public safety must be regarded as superior to private rights. (*Brodsky v. California State Board of Pharmacy* (1959) 173 Cal.App.2d 680, 688-689.)

2. Business and Professions Code section 4101.1 provides:

“Protection of the public shall be the highest priority for the California State Board of Pharmacy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.”

The Standard of Proof

3. The standard of proof in an administrative action seeking to suspend or revoke a professional license is “clear and convincing evidence.” (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) Clear and convincing evidence requires a finding of high probability, or evidence so clear as to leave no substantial doubt; sufficiently strong evidence to command the unhesitating assent of every reasonable mind. (*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 594.)

Applicable Statutes

4. Business and Professions Code section 490 provides in part:

“(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee’s license was issued.

(c) A conviction within the meaning of this section means a plea . . . of guilty. . . . Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed. . . .”

5. Business and Professions Code section 4300 provides in part:

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

....

(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. . . .”¹⁷

6. Business and Professions Code section 4301 provides in part:

“The board shall take action against any holder of a license who is guilty of unprofessional conduct . . . Unprofessional conduct shall include, but is not limited to, any of the following:

¹⁷ This statutory provision was set forth in probation condition 22 (see Factual Finding 12).

...

(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.

...

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter . . .

...

(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. . . .”

7. Business and Professions Code section 4327 provides:

“Any 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.”

8. Business and Professions Code section 4100 provides in part:

“(a) Within 30 days after changing his . . . address of record with the board . . . a pharmacist . . . shall notify the executive officer of the board of the change of address. . . .”

Regulatory Authority

9. Title 16, California Code of Regulations, section 1704 provides:

“Each person holding a certificate, license, permit, registration or exemption to practice or engage in any activity in the State of California under any and all laws

administered by the Board shall file a proper and current residence address with the Board at its office in Sacramento and shall within 30 days notify the Board at its said office of any and all changes of residence address, giving both the old and new address.”

Substantial Relationship

10. To justify the imposition of discipline, there must be some nexus between an act or omission and the professional’s fitness or competence to practice. The Legislature has established such a nexus with respect to certain acts or omissions even where the acts or omissions do not actually impair a professional’s ability to practice medicine. It does so by expressly identifying the act or omission as an instance of “unprofessional conduct.” (*Medical Bd. of California v. Superior Court (Liskey)* (2003) 111 Cal.App.4th 163, 174.)

A determination that a licensee’s conviction justifies discipline cannot rest on the moral reprehensibility of the underlying conduct, but requires a reasoned determination that the conduct was in fact substantially related to the licensee’s fitness to engage in the profession. Licensing authorities enjoy unfettered discretion to determine on a case-by-case basis whether a given conviction is substantially related to the relevant professional qualifications. Business and Professions Code section 481 requires each licensing agency to “develop criteria to aid it . . . to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates.” (*Donaldson v. Department of Real Estate of State of Cal.* (2005) 134 Cal.App.4th 948, 955-956.)

11. Title 16, California Code of Regulations, section 1770 provides:

“For the purpose of denial, suspension, or revocation of a personal or facility license . . . crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare.”

12. Inspector Coyne testified that pharmacists must be scrupulously honest. The Legislature specifically provided in Business and Professions Code section 4301, subdivision (f), that 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, is grounds for license discipline. The regulations, while somewhat vague, provide that any crime or act shall be considered substantially related to the qualifications of a licensee if to a substantial degree it evidences present or potential unfitness.

On the basis of the expert testimony, the express language of Business and Professions Code section 4301, subdivision (f), and the clear intent of the regulation, Haslam’s two recent misdemeanor petty theft convictions, which necessarily involved moral

turpitude,¹⁸ constituted unprofessional conduct and are substantially related to the qualifications, functions and duties of a pharmacist, who must be honest and of good moral character.

This conclusion is based on factual findings and on legal conclusions set forth herein.

The Liskey Decision

13. Citing *Medical Board v. Superior Court (Liskey)* (2005) 111 Cal.App.4th 163, Haslam argued that the violations on which the Board relied were unrelated to the practice of pharmacy and did not reflect upon his professional competence.

Liskey was a physician with a substance abuse problem who entered the Medical Board's diversion program. While he was in the diversion program, Liskey twice tested positive for cocaine. Liskey was terminated from the diversion program. An accusation was filed alleging, among other matters, that grounds existed to discipline Liskey's license because he failed to complete the diversion program. The administrative law judge who heard the disciplinary matter concluded that Liskey was not impaired and that there was no need to impose discipline for Liskey's failure to complete diversion. The Medical Board did not adopt the administrative law judge's proposed decision, and in a decision after nonadoption imposed discipline for the failure to complete the diversion program. Liskey took a writ, and the superior court found there was no cause for discipline. The Medical Board appealed.

On appeal the court of appeal concluded, among other matters, that Business and Professions Code section 22345¹⁹ did not provide a reasonable indication that a failure to complete diversion constituted unprofessional conduct and that discipline could not be imposed solely that ground.

In reaching this conclusion, the appellate court observed that protection of the public includes the prevention of future harm, and that when misconduct poses a sufficient danger to the public, the Legislature may define specific kinds of conduct as grounds for discipline without any showing that such conduct actually impairs a professional's ability to practice. The disregard of the public evidenced by specified illegal conduct was deemed to be sufficient evidence of danger to the public without further evidence of actual impairment of

¹⁸ It is well settled that a petty theft conviction involves moral turpitude as a matter of law. (*In re Rothrock* (1945) 25 Cal.2d 588.)

¹⁹ At the time the accusation was filed against Liskey, section 2354 provided:

“Each physician and surgeon who requests participation in a diversion program shall agree to cooperate with the treatment program designed by a committee. Any failure to complete successfully a treatment program or an acceptable substitute program may result in the filing of an accusation for discipline which may include any acts giving rise to the original diversion.”

professional competency being required. (*Medical Bd. of California v. Superior Court (Liskey)*, *supra*, 412.)

14. Haslam argued that the protection of the public and the rehabilitation of errant practitioners were important goals, and that the Board could achieve each of these goals without revoking Haslam's license to practice pharmacy.

Haslam argued that his petty theft convictions were not substantially related to the qualifications, functions, and duties of a pharmacist; that his failure to update the Board with his new address, after receiving correspondence from the Board's attorney for many months, was understandable if not excusable; and that his late entry into the PRP program, his failure to pay costs, his failure to begin psychotherapy, and his initial failure to adhere initially to the Board's reporting requirements were attributable to the "lack of clarity on the terms." He then argued: "Based upon the reasoning in *Medical Board v. Superior Court (Liskey)* 111 Cal.App.4th, 163, at 174, none of the terms arguably are connected to the practice of pharmacy and therefore do not reflect on Haslam's professional competence." (Respondent's Hearing Brief, Discussion, pages 5-7).

Haslam's reliance on *Liskey* missed the mark. First, unlike in *Liskey*, the Legislature specifically defined what kinds of acts constitute grounds for license discipline in this matter, including any crime "substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued" and 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." Second, and unlike *Liskey*, express statutory grounds authorized the Board to impose discipline for Haslam's violations of probation, which only makes sense since those conditions were imposed to protect the public.

Rehabilitation

15. Title 16, California Code of Regulations, section 1769 sets forth criteria for rehabilitation. It provides in part:

"(b) When considering the suspension or revocation of a facility or a personal license on the ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his present eligibility for a license will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) Evidence, if any, of rehabilitation submitted by the licensee.”

16. Rehabilitation is a state of mind and the law looks with favor upon rewarding with the opportunity to serve, one who has achieved reformation and regeneration. (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) The evidentiary significance of misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct. (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.)

17. Haslam was convicted of petty theft in June 2008 and in October 2008. Those convictions occurred in relatively close proximity to Haslam’s March 2004 conviction for theft from an employer and the incidents occurring between March and June 2004 in which Haslam admitted he diverted drugs from the pharmacy where he worked for his own use. The three theft-related convictions constitute a substantial criminal history. In addition, Haslam violated numerous conditions of his Board probation, which was lawfully imposed. Haslam claimed he has been clean and sober since late July 2008, although he admitted he used mind-altering pain medication in September 2008.

Cause to Revoke Haslam’s License

18. Cause exists under Business and Professions Code sections 490 and 4301, subdivision (l), to revoke Haslam’s license (first and second and fourth causes for discipline). The clear and convincing evidence established that Haslam was convicted of petty theft, a crime necessarily involving moral turpitude, on June 18, 2008, and again on October 14, 2008, and that each crime was substantially related to the qualifications, functions and duties of a pharmacist, who must be honest and trustworthy. Each crime involved dishonesty, fraud, deceit, and corruption.

This conclusion is based on the factual findings and legal conclusions herein.

19. Cause does not exist under Business and Professions Code sections 4301, subdivision (h), or under 4327 to impose any discipline against Haslam’s license for unprofessional conduct involving his alleged use of dangerous drugs to the extent that his ability to practice safely was impaired (third cause for discipline). While an inference may be drawn that on unspecified dates Haslam took so much pain medication that he was under the influence while he was working as a pharmacist, insufficient proof was offered to establish that allegation by clear and convincing evidence.

This conclusion is based on Factual Finding 45.

20. Cause exists under Business and Professions Code section 4301, subdivision (o), and under Title 16, California Code of Regulations, section 1704 to impose discipline against Haslam’s license for his failure to file a change of address form in a timely fashion with the Board (fifth cause for discipline). The clear and convincing evidence established that Haslam maintained an address of record of 4480 Olive Street, La Mesa, CA 91941 with the board and that sometime in March 2006, Haslam had moved from that address to 5850 Jan Drive, La Mesa, CA 91942. Haslam did not notify the Board of his change of address

within 30 days, as he was required to do by statute and regulation. Haslam ultimately advised the Board of his change of address in January 2008.

This conclusion is based on the factual findings and the legal conclusions herein.

21. Cause exists under Business and Professions Code section 4300, subdivision (d), and under probationary condition 22 to vacate the order staying the revocation of Haslam's license in the previous disciplinary matter and to reimpose the order of revocation (first through eighth causes to revoke probation). While he was on probation, Haslam did not serve a full period of suspension, failed to obey all laws, failed to attend psychotherapy, declined (initially) to attend the Pharmacist Recovery Program, failed to comply with random drug screening, failed to obtain a supervised practice, failed to provide quarterly reports to the board, failed to give appropriate notice to his employers of the terms and conditions and reasons he was on probation, and failed to reimburse the Board the costs imposed in the previous disciplinary matter. Each of these violations, other than the failure to serve the full period of suspension, constituted an independent and sufficient basis to vacate the stay order and to reimpose the order of revocation.

This conclusion is based on the factual findings and the legal conclusions herein.

The Appropriate Measure of Discipline

22. Haslam was dependent upon pain medications until at least July 2008. He stole from his employers to support his habit. His judgment became so impaired as a result of his escalating drug use that he committed two petty thefts in 2008. The extent and frequency of his use resulted in potential harm to the public. Haslam's compliance with terms and conditions of probation that the Board imposed in September 2007 has been dreadful. Even though Haslam's recent performance on probation has improved, he remains noncompliant.

The mitigating evidence that Haslam produced and his evidence of rehabilitation was insufficient to conclude that he presently possesses the sobriety and good moral character required to be a pharmacist, even on a probationary basis. Public safety need not be placed at risk to enable Haslam to establish that he has changed his ways. The safer approach is to have Haslam establish his rehabilitation outside of the profession, and to place the burden on Haslam to file a request for reinstatement when he has become rehabilitated.

No sanction other than an outright revocation is supported by this record.

This conclusion is based on the factual findings and the legal conclusions herein.

Costs of Prosecution

23. Business and Professions Code section 125.3 provides in part:

“(a) Except as otherwise provided by law . . . upon request of the entity bringing the proceeding, the administrative law judge may 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.”

24. *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32 held that the regulation imposing costs for investigation and enforcement under Title 16, California Code of Regulations, section 317.5 (which is similar to Bus. & Prof. Code § 125.3) did not violate due process in a case involving the discipline of a chiropractor. But, it was incumbent on the State Board of Chiropractic Examiners to exercise its discretion to reduce or eliminate cost awards in a manner that ensured that section 317.5 did not “deter chiropractors with potentially meritorious claims or defenses from exercising their right to a hearing.”

The Supreme Court set forth four factors that the State Board of Chiropractic Examiners was required to consider in deciding whether to reduce or eliminate costs: (1) whether the chiropractor used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed; (2) whether the chiropractor had a “subjective” good faith belief in the merits of his position; (3) whether the chiropractor raised a “colorable challenge” to the proposed discipline; and (4) whether the chiropractor had the financial ability to make payments.

Since the regulations related to cost recovery in actions involving licensed chiropractors have substantially the same language and seek the same kind of recovery as authorized under Business and Professions Code section 125.3, it is reasonable to extend the reasoning in *Zuckerman* to Business and Professions Code section 7403, subdivision (b).

The *Zukerman* criteria were applied in this matter, and it is concluded that issuing an order directing Haslam to pay Board’s costs of prosecution in this matter is unreasonable under all the circumstances. This conclusion has no impact on the Board’s prior order requiring Haslam to pay costs of \$9,000.

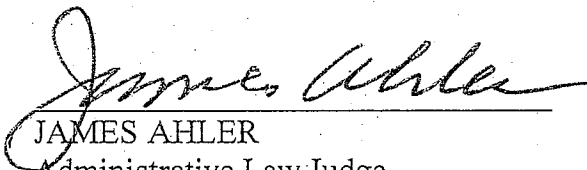
This conclusion is based on the factual findings and legal conclusions herein.

ORDERS

Pharmacy License No. RPH 43678 issued to respondent Ronald Bradley Haslam is revoked based upon the matters established in the First Amended Accusation in Case No. 3201.

Further, and independent of the order set forth above, the stay of the revocation previously imposed in Case No. 2797 entitled *In the Matter of the Amended Accusation Against RONALD BRADLEY HASLAM, Pharmacist License No. RPH 37943, Respondent* is hereby vacated and the order of revocation is reinstated against Pharmacy License No. RPH 43678 issued to Ronald Bradley Haslam based upon the matters established in the Petition to Revoke Probation in Case No. 3201.

DATED: 7/23/09


JAMES AHLER
Administrative Law Judge
Office of Administrative Hearings

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

12 In the Matter of the First Amended Accusation
and Petition to Revoke Probation Against:

13 RONALD BRADLEY HASLAM
14 5850 Jan Drive
La Mesa, CA 91942-4108
15 Original Pharmacist License No. RPH 43678

16 Respondent.

Case No. 3201

OAH No. 2009020056

**FIRST AMENDED ACCUSATION
AND PETITION TO REVOKE
PROBATION**

17
18
19 Complainant alleges:

20 PARTIES

21 1. Virginia Herold (Complainant) brings this First Amended Accusation and
22 Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Board
23 of Pharmacy, Department of Consumer Affairs.

24 2. On or about September 24, 2008, Accusation and Petition to Revoke
25 Probation No. 3201 was filed against Respondent Ronald Bradley Haslam. This First Amended
26 Accusation and Petition to Revoke Probation supersedes and replaces the former Accusation and
27 Petition to Revoke Probation that was filed in this case.

28 ///

1 3. On or about August 6, 1990, the Board of Pharmacy issued Original
2 Pharmacist License Number RPH 43678 to Ronald Bradley Haslam (Respondent). On or about
3 April 10, 2008, Original Pharmacist License Number RPH 43678 was suspended. The Original
4 Pharmacist License will expire on February 28, 2010, unless renewed.

5 PRIOR DISCIPLINE

6 4. In a disciplinary action entitled "In the Matter of Accusation Against
7 Ronald Bradley Haslam," Case No. 2797, the Board of Pharmacy, issued a decision, effective
8 August 31, 2007, in which Respondent's Original Pharmacist License was revoked. However,
9 the revocation was stayed and Respondent's Original Pharmacist License was placed on
10 probation for a period of five (5) years with certain terms and conditions. A copy of that
11 decision is attached as Exhibit A and is incorporated by reference.

12 JURISDICTION FOR THE FIRST AMENDED ACCUSATION

13 5. This First Amended Accusation is brought before the Board of Pharmacy
14 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
15 references are to the Business and Professions Code (Code) unless otherwise indicated.

16 6. Section 4300 of the Code states:

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

18

19 7. Section 4301 of the Code states:

20 The board shall take action against any holder of a license who is guilty of
21 unprofessional conduct or whose license has been procured by fraud or
misrepresentation or issued by mistake. Unprofessional conduct shall include, but
22 is not limited to, any of the following:

23

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

26

27 (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
28 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

1 ability of the person to conduct with safety to the public the practice authorized
2 by the license.

3

4 (l) The conviction of a crime substantially related to the qualifications,
5 functions, and duties of a licensee under this chapter. The record of conviction of
6 a violation of Chapter 13 (commencing with Section 801) of Title 21 of the
7 United States Code regulating controlled substances or of a violation of the
8 statutes of this state regulating controlled substances or dangerous drugs shall be
9 conclusive evidence of unprofessional conduct. In all other cases, the record of
10 conviction shall be conclusive evidence only of the fact that the conviction
11 occurred. The board may inquire into the circumstances surrounding the
12 commission of the crime, in order to fix the degree of discipline or, in the case of
13 a conviction not involving controlled substances or dangerous drugs, to determine
14 if the conviction is of an offense substantially related to the qualifications,
15 functions, and duties of a licensee under this chapter. A plea or verdict of guilty
16 or a conviction following a plea of nolo contendere is deemed to be a conviction
17 within the meaning of this provision. The board may take action when the time
18 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal
19 or when an order granting probation is made suspending the imposition of
20 sentence, irrespective of a subsequent order under Section 1203.4 of the Penal
21 Code allowing the person to withdraw his or her plea of guilty and to enter a plea
22 of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
23 information, or indictment.

24

25 (o) Violating or attempting to violate, directly or indirectly, . . . any
26 provision or term of this chapter or of the applicable federal and state laws and
27 regulations governing pharmacy, including regulations established by the board or
28 by any other state or federal regulatory agency.

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

9. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to
evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation
furnished by the applicant or licensee.

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10. Section 490 of the Code states:

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Senate Bill 797 of the 2007 -08 Regular Session do not constitute a change to, but rather are declaratory of, existing law.

11. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'

12. Section 118, subdivision (b), of the Code provides that the suspension or expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary

1 action during the period within which the license may be renewed, restored, reissued or
2 reinstated.

3 13. Section 125.3 of the Code provides, in pertinent part, that the Board may
4 request the administrative law judge to direct a licentiate found to have committed a violation or
5 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
6 and enforcement of the case.

7 14. California Code of Regulations, title 16, section 1704, states:

8 Each person holding a certificate, license, permit, registration or
9 exemption to practice or engage in any activity in the State of California under
10 any and all laws administered by the Board shall file a proper and current
11 residence address with the Board at its office in Sacramento and shall within 30
12 days notify the Board at its said office of any and all changes of residence
13 address, giving both the old and new address.

14 15. California Code of Regulations, title 16, section 1770, states:

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

22 DRUGS

23 16. Atrovent is designated as a dangerous drug pursuant to Business and
24 Professions Code section 4022 and is an inhaled bronchodilator used to prevent bronchospasm,
25 or narrowing airways in the lungs in people with bronchitis, emphysema, or asthma.

26 17. Flonase is a dangerous drug pursuant to business and Professions Code
27 Section 4022. It is a corticosteroid nasal spray used to treat itching, sneezing, congestion, and
28 runny nose due to allergy and other causes.

18 Morphine sulphate is a Schedule II controlled substance as designated by
19 Health and Safety Code section 11055(b)(1)(M), and is a dangerous drug pursuant to Business
20 and Professions Code section 4022. Morphine Sulphate provides relief of intractable pain not
21 controlled with non-narcotic analgesics.

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1 19. Nexium is a trade name for the generic drug Esomeprazole which is
2 designated as a dangerous drug pursuant to Business and Professions Code section 4022.
3 Esomeprazole blocks the production of acid by the stomach and is used in the treatment of
4 gastroesophageal reflux disease.

5 20. Norco is a trade name for the generic drug hydrocodone with
6 acetaminophen which is designated by Health and Safety Code section 11056(e)(4) as a narcotic
7 drug and a Schedule III controlled substance, and by Business and Professions Code section
8 4022 as a dangerous drug, and is used as a narcotic analgesic in the relief of pain.

9 21. Pseudoephedrine is an over-the-counter drug used to relieve nasal
10 congestion caused by colds, allergies, and hay fever. It is also used to temporarily relieve sinus
11 congestion and pressure.

12 22. Trazadone is a trade name for the generic drug, desyrel, which is a
13 dangerous drug within the meaning of Business and Professions Code section 4022, and used for
14 the treatment of depression.

15 23. Xanax is a trade name for the generic drug, alprazolam, which is
16 designated by Health and Safety Code section 11057(d)(1) as a Schedule IV controlled
17 substance, and by Business and Professions Code section 4022 as a dangerous drug, and is used
18 in the treatment of anxiety.

19 24. Zyrtec is an over-the-counter medication which is an antihistamine used to
20 treat allergies.

21 **FIRST AMENDED ACCUSATION CHARGES**

22 **FIRST CAUSE FOR DISCIPLINE**

23 (June 18, 2008 Conviction for Petty Theft on March 20, 2008)

24 25. Respondent's license is subject to discipline for unprofessional conduct
25 under Code sections 490, 4300, and 4301(l) in that Respondent was convicted of a crime
26 substantially related to the qualifications, functions, and duties of a pharmacist. The
27 circumstances are as follows:

28 ///

1 a. On or about June 18, 2008, Respondent pled guilty to a violation of Penal
2 Code section 484 (Petty Theft With a Prior) a misdemeanor, in the criminal proceeding entitled
3 *People vs. Ronald Bradley Haslam*, San Diego Superior Court, East County Division, Citation
4 Number C279025.

5 b. On June 18, 2008, Respondent was sentenced and placed on summary
6 probation for three years; committed to the custody of the sheriff for one day, pay a fine of \$563
7 plus an additional fee of \$30; and complete 10 days of public service, with 1 day of credit for
8 time served.

9 c. The circumstances of the crime are that on March 20, 2008, Respondent
10 walked up to an outside display stand of dog food and took a 40 pound bag of dog food from Pet
11 People in La Mesa, California. Respondent walked to the parking lot without paying for the dog
12 food. Respondent was confronted at his car by a store employee and customer regarding his not
13 paying for the dog food. Respondent got in his vehicle and proceeded to back up. The customer,
14 who was behind Respondent's vehicle, hit the back window of the vehicle and yelled several
15 times for Respondent to stop. Respondent then backed into the customer and the force pushed
16 her back 5 to 8 feet. The customer was able to move out of the way before Respondent drove off
17 in his vehicle. Respondent was arrested at his home.

18 SECOND CAUSE FOR DISCIPLINE

19 (October 14, 2008 Conviction for Petty Theft on April 18, 2008)

20 26. Respondent's license is subject to discipline for unprofessional conduct
21 under Code sections 490, 4300, and 4301(I) in that Respondent was convicted of a crime
22 substantially related to the qualifications, functions, and duties of a pharmacist. The
23 circumstances are as follows:

24 a. On or about October 14, 2008, Respondent pled guilty to a violation of
25 Penal Code section 484 (Petty Theft With a Prior) a felony, in the criminal proceeding entitled
26 *People vs. Ronald Bradley Haslam*, San Diego Superior Court, East County Division, Citation
27 Number CE281530.

28 ///

1 b. On October 14, 2008, Respondent was sentenced and placed on summary
2 probation for three years, committed to the custody of the sheriff for one day, and ordered to pay
3 fines in the amount of \$220.

4 c. The circumstances of the crime are that on April 18, 2008, while
5 Respondent was shopping at the La Mesa Costco, he removed an electric razor from its
6 packaging, wrapped it in a pair of shorts and concealed the razor and shorts in his pants.
7 Respondent left Costco without paying for the electric razor or the pair of shorts. Once outside
8 the store, Respondent was confronted and detained by Costco Loss Prevention. Respondent
9 admitted to Costco Loss Prevention that he had stolen the items from Costco.

10 THIRD CAUSE FOR DISCIPLINE

11 (Unprofessional Conduct: Dispensing While Under the Influence
12 of Dangerous Drugs/Impairment)

13 27. Respondent is subject to disciplinary action under Code sections 4300,
14 4301(h) and 4327 for unprofessional conduct for using dangerous drugs to the extent that the use
15 impaired his ability to practice safely in that Respondent used a high quantity of dangerous drugs
16 on a daily basis and has worked as a pharmacist selling, dispensing or compounding drugs while
17 under the influence of dangerous drugs. The circumstances are as follows:

18 a. Respondent disclosed to the Board on February 21, 2008 that on a daily
19 basis he was taking approximately 10 Norco tablets, 3 morphine sulfate 60mg tablets, and 1 dose
20 of Trazadone 150mg. Respondent also took Xanax, Zyrtec, Pseudoephedrine, Flonase, Atrovent
21 and Nexium, all on an as needed basis.

22 FOURTH CAUSE FOR DISCIPLINE

23 (Acts Involving Moral Turpitude and Dishonesty)

24 28. Respondent's license is subject to discipline for unprofessional conduct
25 under Code sections 4300 and 4301(f) for the commission of acts involving moral turpitude and
26 dishonesty in that he attempted to shoplift merchandise on two separate occasions from two
27 different merchants. The circumstances are as follows:

28 ///

1 a. On March 20, 2008, Respondent attempted to steal a 40-pound bag of dog
2 food from an outside display at Pet People in La Mesa, California, as is more particularly set
3 forth in paragraph 25 above and incorporated herein.

4 b. On April 18, 2008, Respondent attempted to steal an electric razor and a
5 pair of shorts from Costco by concealing them in his pants, as is more particularly set forth in
6 paragraph 26 above and incorporated herein.

7 FIFTH CAUSE FOR DISCIPLINE

8 (Failure to Change Address of Record With Board)

9 29. Respondent's license is subject to discipline for unprofessional conduct
10 under Code sections 4300 and 4301(o) for a violation of Board regulations in that Respondent
11 failed to change his address of record with the Board within 30 days of moving as required by
12 California Code of Regulations, title 16, section 1704. The circumstances are that on August 1,
13 2007, the Board sent Respondent a copy of the Decision After Non-Adoption by certified mail to
14 Respondent's address of record on file with the Board. The Decision was returned to the Board
15 as undeliverable by the post office. On September 6, 2007, the Board sent Respondent a letter of
16 invitation to an initial probation office conference by regular and certified mail at his address of
17 record on file with the Board. Both letters were returned by the post office as undeliverable and
18 unable to forward. Two more letters were sent to Respondent at his address of record on file
19 with the Board on November 9 and 30, 2007. Both letters were returned as undeliverable.
20 Notations on the returned envelopes by the post office indicated that Respondent had changed
21 his residence address at least 6 months prior to the Board's mailings being sent to Respondent,
22 however Respondent had failed to notify the Board of his change of address. On December 31,
23 2007, Respondent contacted the Board and informed staff that he had been to his old address and
24 had obtained a copy of the Decision. Respondent verbally gave the Board his new address and
25 was told he needed to submit his change of address in writing. On January 8, 2008, the Board
26 received Respondent's change of address.

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1 JURISDICTION FOR THE PETITION TO REVOKE PROBATION

2 30. Section 4300(d) of the Code states:

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

6 31. Grounds exist for revoking the probation and reimposing the order of
7 revocation of Pharmacy License Number RPH 43678 issued to Respondent. The Board's
8 disciplinary order effective on August 31, 2007, contained Probation Condition 22, Violation of
9 Probation, which provides as follows:

10 If respondent violates probation in any respect, the board, after giving
11 respondent notice and an opportunity to be heard, may revoke probation and carry
12 out the disciplinary order which was stayed. If a petition to revoke probation or an
13 accusation is filed against respondent during probation, the board shall have
14 continuing jurisdiction and the period of probation shall be extended, until the
15 petition to revoke probation or accusation is heard and decided.

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

17 32. Respondent has violated the conditions of his probation as set forth in the
18 following paragraphs.

19 FIRST CAUSE TO REVOKE PROBATION

20 (Failure to Obey All Laws)

21 33. The Board's disciplinary order effective on August 31, 2007, contained
22 Probation Condition 3, Obey All Laws, which required Respondent to do the following:

23 Respondent shall obey all state and federal laws and regulations
24 substantially related to or governing the practice of pharmacy.

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

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

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- 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.

34. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 3, referenced above. Respondent failed to notify the Board of his convictions for petty theft on June 18, 2008 in the matter of the *People v. Ronald Haslam*, San Diego Superior Court, East County Division, Citation Number C279025 and on October 14, 2008 in the matter of the *People v. Ronald Haslam*, San Diego Superior Court, East County Division, Citation Number CE281530. The circumstances of the crimes are set forth in paragraphs 25 and 26 above and incorporated herein as though fully set forth.

SECOND CAUSE TO REVOKE PROBATION

(Failure to Attend Psychotherapy)

35. The Board's disciplinary order effective on August 31, 2007, contained Probation Condition 4, Psychotherapy, which required Respondent to do the following:

Within thirty (30) days of the effective date of this decision, respondent shall submit to the board, for its prior approval, the name and qualifications of a licensed mental health practitioner of respondent's choice. Should respondent, for any reason, cease treatment with the approved licensed mental health practitioner, respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement psychotherapist or licensed mental health practitioner of respondent's choice to the board for its prior approval.

Therapy shall be at least once a week unless otherwise determined by the board. Respondent shall provide the therapist with a copy of the board's accusation and decision no later than the first therapy session. Respondent shall take all necessary steps to ensure that the treating therapist submits written quarterly reports to the board concerning respondent's fitness to practice, progress in treatment, and to provide such other information as may be required by the board. If the treating therapist finds that respondent cannot practice safely or independently, the therapist shall notify the board immediately by telephone and followed up by written letter within three working days.

36. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 4, referenced above. Respondent has failed to submit the

1 name and qualifications of a licensed mental health practitioner to the Board for prior
2 approval so he may obtain treatment.

3 THIRD CAUSE TO REVOKE PROBATION

4 (Failure to Attend Pharmacists Recovery Program)

5 37. The Board's disciplinary order effective on August 31, 2007, contained
6 Probation Condition 5, Rehabilitation Program- Pharmacists Recovery Program, which
7 required Respondent to do the following:

8 Within 30 days of the effective date of this decision, respondent shall
9 contact the Pharmacists Recovery Program for evaluation and shall
10 successfully participate in and complete the treatment contract and any
11 subsequent addendums as recommended and provided by the PRP and as
12 approved by the board. The costs for PRP participation shall be borne by the
13 respondent.

14 If respondent is currently enrolled in the PRP, said participation is now
15 mandatory and is no longer considered a self-referral under Business and
16 Professions Code section 4363, as of the effective date of this decision.
17 Respondent shall successfully participate in and complete his or her current
18 contract and any subsequent addendums with the PRP. Probation shall be
19 automatically extended until respondent successfully completes his or her
20 treatment contract. Any person terminated from the program shall be
21 automatically suspended upon notice by the board. Respondent may not
22 resume the practice of pharmacy until notified by the board in writing.

23 38. Respondent's probation is subject to revocation because he failed to
24 comply with Probation Condition 5, referenced above. Respondent declined to participate in
25 and successfully complete the Pharmacists Recovery Program.

26 FOURTH CAUSE TO REVOKE PROBATION

27 (Failure to Comply With Random Drug Screening)

28 39. The Board's disciplinary order effective on August 31, 2007, contained
Probation Condition 6, Random Drug Screening, which required Respondent to do the
following:

Respondent, at his or her 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

1 drugs or other controlled substances. Failure to submit to testing as directed
2 shall constitute a violation of probation. Any confirmed positive drug test shall
3 result in the immediate suspension of practice by respondent. Respondent may
4 not resume the practice of pharmacy until notified by the board in writing.

4 40. Respondent's probation is subject to revocation because he failed to
5 comply with Probation Condition 6, referenced above. Respondent has failed to participate
6 in random drug screening.

7 FIFTH CAUSE TO REVOKE PROBATION

8 (Failure to Obtain Supervised Practice)

9 41. The Board's disciplinary order effective on August 31, 2007, contained
10 Probation Condition 8, Supervised Practice, which required Respondent to do the following:

11 Respondent shall practice only under the supervision of a pharmacist
12 not on probation with the board. Respondent shall not practice until the
13 supervisor is approved by the board. The supervision shall be, as required by
14 the board, either:

15 Continuous - 75% to 100% of a work week
16 Substantial - At least 50% of a work week
17 Partial - At least 25% of a work week
18 Daily Review - Supervisor's review of probationer's daily activities within 24
19 hours

16 Within 30 days of the effective date of this decision, respondent shall
17 have his or her supervisor submit notification to the board in writing stating the
18 supervisor has read the decision in case number 2797 and is familiar with the
19 level of supervision as determined by the board.

19 If respondent changes employment, respondent shall have his or her
20 new supervisor, within 15 days after employment commences, submit
21 notification to the board in writing stating the direct supervisor and pharmacist-
22 in-charge have read the decision in case number 2797 and is familiar with the
23 level of supervision as determined by the board.

22 Within 10, days of leaving employment, respondent shall notify the
23 board in writing.

24 42. Respondent's probation is subject to revocation because he failed to
25 comply with Probation Condition 8, referenced above. Respondent failed to submit the name
26 of a supervising pharmacist for prior approval before practicing as a pharmacist at the
27 locations where he worked as a pharmacist.

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SIXTH CAUSE TO REVOKE PROBATION

(Failure to Report to the Board)

43. The Board’s disciplinary order effective on August 31, 2007, contained Probation Condition 10, Reporting to the Board, which required Respondent to do the following:

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.

44. Respondent’s probation is subject to revocation because he failed to comply with Probation Condition 10, referenced above. Respondent failed to comply with the requirements related to submitting his Quarterly Reports. Only one quarterly report was received from Respondent and it was not signed or dated.

SEVENTH CAUSE TO REVOKE PROBATION

(Failure to Give Notice to Employers)

45. The Board’s disciplinary order effective on August 31, 2007, contained Probation Condition 14, Notice to Employers, which required Respondent to do the following:

Respondent shall notify all present and prospective employers of the decision in case number 2797, OAH No. L2005070878 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 or her 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 2797, OAH No. L2005070878.

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 and conditions of the decision in case number 2797, OAH No. L2005070878 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.

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1 46. Respondent's probation is subject to revocation because he failed to
2 comply with Probation Condition 14, referenced above. Respondent failed to provide
3 verifications of employment for any of the pharmacies where he worked as a pharmacist.

4 EIGHTH CAUSE TO REVOKE PROBATION

5 (Failure to Reimburse Board Costs)

6 47. The Board's disciplinary order effective on August 31, 2007, contained
7 Probation Condition 16, Reimbursement of Board Costs, which required Respondent to do the
8 following:

9 Respondent shall pay to the board its costs of investigation and
10 prosecution in the amount of \$9,000.00. Respondent shall make said payments
11 as follows: In the event Respondent is not financially able to make a single
12 payment of \$9,000.00, he may make periodic payments during his 60 months
13 of probation at the rate of \$150.00 per month.

14 The filing of bankruptcy by respondent shall not relieve respondent of
15 his or her responsibility to reimburse the board its costs of investigation and
16 prosecution.

17 48. Respondent's probation is subject to revocation because he failed to
18 comply with Probation Condition 16, referenced above. Respondent failed to make any
19 payment related to the costs of investigation and prosecution in this case.

20 DISCIPLINE CONSIDERATIONS

21 49. To determine the degree of discipline, if any, to be imposed on
22 Respondent's license, Complainant alleges that on or about March 17, 2004, in the Superior
23 Court of California, County of San Diego, East County Division, in a prior criminal
24 proceeding entitled *People v. Ronald Bradley Haslam*, Case No. C238398, Respondent was
25 convicted on his plea of guilty of violating Penal Code section 487(b)(3) (grand theft by
26 employee), a misdemeanor. Respondent's conviction was the direct result of his diversion of
27 controlled substances from his place of employment at WalMart Pharmacy.

28 50. To determine the degree of discipline, if any, to be imposed on
Respondent's license, Complainant alleges that disciplinary action has been taken against
Respondent previously in Case No. 2797, as is outlined above in paragraph 4.

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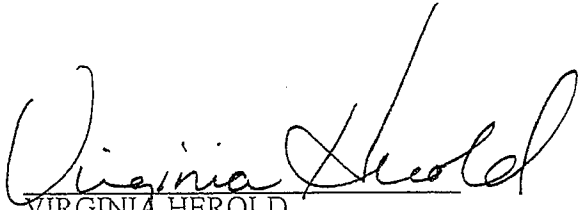
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PRAYER

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 the probation that was granted by the Board of Pharmacy in Case No. 2797 and imposing the disciplinary order that was stayed thereby revoking Original Pharmacist License No. RPH 43678 issued to Ronald Bradley Haslam;
2. Revoking or suspending Original Pharmacist License No. RPH 43678, issued to Ronald Bradley Haslam; and
3. Ordering Ronald Bradley Haslam to pay the California State Board of Pharmacy the reasonable costs of the investigation and prosecution of this matter pursuant to Business and Professions Code section 125.3; and,
4. Taking such other and further action as deemed necessary and proper.

DATED: 5/14/09



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

SD2008801960
80359072.wpd

Exhibit A
Decision and Order
Board of Pharmacy Case No. 2797

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

In the Matter of the Amended Accusation against:

RONALD BRADLEY HASLAM
4480 Olive Street
La Mesa, CA 91941

Pharmacist License No. RPH 43678

Respondent.

Case No. 2797

OAH No. L2005070878

DECISION AFTER NONADOPTION

Administrative Law Judge Robert D. Iafe, of the State of California Office of Administrative Hearings, heard this matter in San Diego, California, on October 3, 2006.

Rita M. Lane, Deputy Attorney General, California Department of Justice, appeared on behalf of Complainant Patricia F. Harris, Executive Officer of the California State Board of Pharmacy (Board), Department of Consumer Affairs, State of California.

Respondent Ronald Bradley Haslam (Respondent or Haslam) appeared on his own behalf and was present during the entire hearing.

The record was opened on October 3, 2006. Documents and testimony were offered and received into evidence, and the parties made closing arguments. The record was then closed and the matter was submitted on October 3, 2006.

The proposed decision of the Administrative Law Judge was submitted to the Board on November 1, 2006. After due consideration thereof, the Board declined to adopt said proposed decision and thereafter on February 13, 2007 issued an Order of Non-adoption and subsequently on May 24, 2007 issued an Order Fixing Date for Submission of Argument. Written argument having been received from Deputy Attorney General Rita M. Lane and the time for filing written argument in this matter having expired, and the entire record, including the transcript of said

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OCT 10 2006
STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
OFFICE OF ADMINISTRATIVE HEARINGS
SAN DIEGO, CALIFORNIA

hearing having been read and considered, the Board, pursuant to Section 11517 of the Government Code, hereby makes the following decision:

FACTUAL FINDINGS

Stipulated Evidence:

Respondent's License History:

1. On or about August 6, 1990, the Board issued Original Pharmacist License Number RPH 43678 to Respondent Haslam. Respondent's license expires on February 29, 2008, unless renewed or revoked. There is no history of any disciplinary action against Respondent's license before this proceeding.

Controlled Substances:

2. At all times material, Lortab was and is a trade name for the generic drug hydrocodone with acetaminophen which is designated by Health and Safety Code section 11056(e)(4) as a narcotic drug and a Schedule III controlled substance, and by Business and Professions Code section 4022 as a dangerous drug, and is used as a narcotic analgesic in the relief of pain.

3. At all times material, Lorcet was and is a trade name for the generic drug hydrocodone with acetaminophen which is designated by Health and Safety Code section 11056(e)(4) as a narcotic drug and a Schedule III controlled substance, and by Business and Professions Code section 4022 as a dangerous drug, and is used as a narcotic analgesic in the relief of pain.

4. At all times material, Norco was and is a trade name for the generic drug hydrocodone with acetaminophen which is designated by Health and Safety Code section 11056(e)(4) as a narcotic drug and a Schedule III controlled substance, and by Business and Professions Code section 4022 as a dangerous drug, and is used as a narcotic analgesic in the relief of pain.

5. At all times material, Vicodin was and is a trade name for the generic drug hydrocodone with acetaminophen which is designated by Health and Safety Code section 11056(e)(4) as a narcotic drug and a Schedule III controlled substance, and by Business and Professions Code section 4022 as a dangerous drug, and is used as a narcotic analgesic in the relief of pain.

6. At all times material, Valium was and is a trade name for the generic drug diazepam which is designated by Health and Safety Code section 11057(d)(3) as a non-narcotic drug and a Schedule IV controlled substance, and by Business and Professions Code section 4022 as a dangerous drug, and is used in the management of anxiety.

7. At all times material, Phentermine was and designated by Health and Safety Code section 11057(f)(2) as a Schedule IV controlled substance, and by Business and Professions Code

section 4022 as a dangerous drug, and is used as a stimulant.

8. At all times material, Xanax was and is a trade name for the generic drug alprazolam which is designated by Health and Safety Code section 11057(d)(1) as a Schedule IV controlled substance, and by Business and Professions Code section 4022 as a dangerous drug, and is used in the treatment of anxiety.

9. At all times material, Trazadone was and is a trade name for the generic drug desyrel which is a dangerous drug within the meaning of Business and Professions Code section 4022, and is used for the treatment of depression.

10. At all times material, Effexor was and is a trade name for the generic drug venlafaxine which is a dangerous drug within the meaning of Business and Professions Code section 4022, and is used for the treatment of depression and generalized anxiety.

11. At all times material, Neurontin was and is a trade name for the generic drug gabapentin which is a dangerous drug within the meaning of Business and Professions Code section 4022, and is used for adjunctive therapy in the treatment of partial seizures.

12. At all times material, Clonidine was and is a trade name for the generic drug catapres which is a dangerous drug within the meaning of Business and Professions Code section 4022, and is used for the treatment of hypertension.

13. At all times material, Viagra was and is a trade name for the generic drug sildenafil which is a dangerous drug within the meaning of Business and Professions Code section 4022, and is used for erectile dysfunction.

Respondent's Conduct at Wal Mart Pharmacy 2253

14. In February and March 2004, Respondent was employed as a pharmacist at Wal-Mart Pharmacy 2253, located in El Cajon, California.

15. During February 2004, Wal-Mart placed a surveillance camera in Pharmacy 2253. The tape from the surveillance camera on February 24, 2004, shows Respondent selecting a bottle from a shelf within the pharmacy, opening the bottle, and consuming medication from the bottle. After consuming the medication as revealed in the surveillance video, Respondent, while on duty as a pharmacist, sold, dispensed, and compounded drugs at Wal-Mart Pharmacy 2253.

16. On March 10, 2004, agents from the Bureau of Narcotic Enforcement confronted Respondent with controlled substances and dangerous drugs that were missing from Wal Mart Pharmacy 2253. At this time, Respondent admitted to the agents that he was ingesting up to eight tablets per day of controlled substances that contained hydrocodone. On the same day, Respondent permitted the agents to search his person and residence. In the search, the agents found the following controlled substances and dangerous drugs that Respondent diverted from Wal-Mart Pharmacy 2253 during February and March 2004:

Drug	Amount
Lortab	34
Lorcet	13
Norco	22
Trazadone 100 mg	12
Trazadone 50 mg	82
Phentermine	1
Valium	130+
Viagra	11
Neurontin	1
Clonidine	1

17. On or about March 17, 2004, in the Superior Court of California, County of San Diego, East County Division, in a case entitled *People v. Ronald Bradley Respondent*, Case No. C238398, Respondent was convicted on his plea of guilty of violating Penal Code section 487(b)(3) (grand theft by employee), a misdemeanor. The facts and circumstances behind this conviction relate to Respondent's diversion of controlled substances from Wal-Mart Pharmacy 2253, described in paragraphs 14 and 15 above.

18. As punishment for his conviction under Penal Code section 487(b)(3), Respondent was placed on probation for two years, with 180 days in custody stayed pending successful completion of probation, and ordered to pay a fine of \$500.00 and a restitution fine of \$100.00.

Respondent's Conduct at Longs Drug Stores

19. On or about March 25, 2004, Respondent completed an Employment Application to work as a pharmacist at Longs Drug Stores. In the Employment Application, Respondent failed to reference his employment at Wal-Mart Pharmacy 2253. Longs Drug Stores hired Respondent to work as a "floater" pharmacist at drug stores in the San Diego Area.

20. On or about June 14, 2004, managers for Longs Drug Stores confronted Respondent regarding missing personal property, time card discrepancies, and missing medications. At that time, Respondent admitted that he had taken a cordless phone set and a boom box from Longs Drug Store #274. These items were subsequently returned. Respondent also admitted that there were a total of 20 minutes on his time cards for which he was not entitled to receive payment. Respondent also admitted that he diverted for his personal use the following controlled substances and dangerous drugs from various Longs Drug Stores where he worked:

Drug	Amount
Vicodin	300
Norco	140
Xanax	35
Effexor	24

21. On June 14, 2004, Respondent admitted to the managers at Longs Drug Stores that he diverted the above-described medications due to medical conditions that he was experiencing. Respondent consumed the drugs described in paragraph 20 above when he was on duty as a pharmacist at Longs Drug Stores, and that he sold, dispensed, and compounded drugs while under the influence of such medications.

Respondent's Evidence on Mitigation and Rehabilitation:

Background and Respondent's Conduct After His Employment at Wal-Mart Pharmacy 2253 and Longs Drug Stores

22. Respondent has suffered from chronic neck and upper back pain for many years dating back to his late teens. The severity of his pain increased after a motor vehicle accident which occurred in 1997. The pain becomes worse after prolonged periods of time standing, looking down at his work area, and holding a telephone between his ear and shoulder, three postures associated with his job as a pharmacist. He had tried several different types of therapy including hot and cold physical therapy, strength training, deep tissue massage, and epidural injections which made no significant difference in his pain management. He explained that at one time he had prescriptions from a physician for his pain management for the drugs found in his possession in 2004.

23. In the past few years Respondent has seen a number of medical doctors to help with his condition including his primary care doctor Robert Lajvardi, M.D. and Ellyn Levine, M.D. Respondent was then referred to Christopher Glazener, M.D., an anesthesiologist, who provided area-specific injections which gave some temporary relief. In spite of these treatments, the pain persisted.

24. In early 2006, Respondent was referred to William L. Wilson, M.D. who is an anesthesiologist and chronic pain management specialist. He specializes in the diagnosis, treatment, and management of pain disorders. Dr. Wilson concluded that Respondent suffered from a cervical facet syndrome. He treated Respondent with paravertebral facet joint injections of Lidocaine and cortisone in his neck region, using fluoroscopic guidance. This procedure, which results in a more precise injection, has given Respondent far better relief of his pain than any other mode of treatment over the years. Over time, and with the help of these injections, Respondent has been able to reduce his other pain medications.

25. In a written report dated February 24, 2006, William L. Wilson, M.D., describes the history and prescribed medications used by Respondent, his examination results, diagnosis and recommendations for Respondent. He notes many of the medications, with the prescribed amounts, that Respondent used in the attempt to manage the pain he suffered over the years. The medications included generics and various brand names including Lortab, Norco, Trazadone, Xanax, and Effexor, among others. Dr. Wilson also referred Respondent for an evaluation by Gary Eaton, M.D., F.A.C.P., a psychiatrist and addiction specialist, regarding drug-seeking or addictive behaviors.

26. Dr. Wilson wrote in a February 24, 2006 report that it was possible that the

medications in addition to providing analgesia were providing some form of psychotropic support for Respondent's depression and anxiety. He went on to write that patients are frequently not able to distinguish the various beneficial effects of the medications on their overall sense of well-being.

27. In a March 29, 2006 letter to Dr. Wilson, Dr. Eaton wrote that Respondent did not appear to have any signs of addiction or abuse or illicit or illegal drug use.

28. In a May 22, 2006 unaddressed letter to "To whom it may concern," Dr. Wilson wrote that the purpose of the letter was to note that Respondent's symptoms were consistent with cervical facet syndrome. Respondent's response to therapy allowed him to reduce his narcotic drug intake. Dr. Wilson also concluded that Respondent's ability to reduce his drug intake was consistent with the absence of addictive disease and that addictive disease had not played a role in the course of Respondent's pain problem.

29. Respondent testified that in 15 years of practice as a pharmacist, he had no major misfills of a prescription, no lawsuits and no discipline problems other than this proceeding. He has not had any trouble with the law for any addictive behavior or for driving under the influence. He is very methodical in the way he practices and always double and triple checks what goes out of the pharmacy with a view toward the health and safety of his customers.

30. Respondent testified with remorse when he admitted that his failure to get his pain prescriptions refilled was, in his own words, lazy and stupid. During this time he was waiting for his health insurance, which had been terminated when he changed jobs, to be put back into effect, but he knows that was no excuse for taking drugs without a prescription. He was ashamed of his conduct and knows that taking prescriptions without current and valid prescriptions from his doctors was wrong.

31. Respondent was very forthright and truthful when he was confronted about his conduct at Wal-Mart. He did not try to hide his conduct from the investigating officers. He readily consented to a search of his person, his car, and his home and promptly provided all the drugs that he had diverted to himself. When confronted at Longs Drugs, Respondent again was immediately truthful and promptly admitted his misconduct to the store managers.

32. After the original Accusation was filed in this matter, Respondent voluntarily entered into a written stipulation with Complainant Patricia F. Harris in which he admits the complete truth and accuracy of each and every charge and allegation contained in the original Accusation. This stipulation has been filed in this proceeding.

33. Likewise, after the First Amended Accusation was filed in this matter, Respondent again voluntarily entered into a written stipulation in which he admits the complete truth and accuracy of each and every charge and allegation contained in the First Amended Accusation. This stipulation has also been filed in this proceeding and provides the basis for Factual Findings 2 through 21 and the five Causes for Discipline in paragraphs 22 through 39.

34. Respondent has demonstrated over the past two years that he can continue to work as

a pharmacist without incident. Rather than relying on self-medication, Respondent has continued with his medical treatment for his chronic pain, treatment which has actually provided a better result for him and allowed him to reduce his currently prescribed medications.

35. There is no evidence that Respondent has stolen any drugs or personal property, or that he has self-administered any medication, since June 14, 2004. There is no evidence that Respondent was at any time addicted to any medication he self-administered during the period of time from February through June 2004 which self-administration gave rise to this disciplinary proceeding. There is also no evidence of drug abuse, recreational use of drugs, or the illegal sale of drugs by Respondent at any time.

36. Respondent has a stable family life. He shares joint custody of his son with his former wife, Jennifer Haslam, and his son lives with him 50% of the time. Ms. Haslam wrote a letter dated June 5, 2006, to support Respondent stating that he takes his responsibilities to his son very seriously. She reports that Respondent pays monthly child care costs that helps with rent, food, clothing, music lessons, and swim team costs for their son. In addition to monthly expense payments, Ms. Haslam reports Respondent also buys clothing, toys, and the like when their son is in his care. In describing her former husband, Ms. Haslam notes that Respondent is quite involved with their son and is a good father.

LEGAL CONCLUSIONS

Causes for Discipline

1. Respondent's Conviction of Grand Theft by Employee is a Substantially Related Conviction and is a Cause for Discipline

1. Business and Professions Code section 4301 provides that the Board shall take action against any holder of a license who is guilty of unprofessional conduct. Business and Professions Code section 4301(1) provides that unprofessional conduct for a licensed pharmacist includes the conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under the California Pharmacy Act.

2. Board Regulation 1770 provides that a crime shall be considered substantially related to the qualifications, functions, or duties of a licensee if to a substantial degree it evidences present or potential unfitness of a licensee to perform the functions authorized by his or her license in a manner consistent with the public health, safety, or welfare.

3. The pharmacist license held by Respondent is subject to discipline under Business and Professions Code sections 4300 and 4301, for unprofessional conduct within the meaning of Business and Professions Code section 4301(1), in that Respondent was convicted of a crime that is substantially related to the qualifications, functions, and duties of a pharmacist. Respondent's conviction, on his plea of guilty, of violating Penal Code section 487(b)(3) (grand theft by employee), a misdemeanor, by his diversion of controlled substances from Wal-Mart Pharmacy 2253 evidenced Respondent's unfitness to perform the functions authorized by his pharmacist license in a manner inconsistent with the public's health, safety, and welfare. These conclusions

are based on Factual Findings 1 through 18 and Legal Conclusions 1, 2, and 3.

2. Respondent's Violation of Statutes Regulating Controlled Substances is a Cause for Discipline

4. Business and Professions Code section 4301(j) provides that unprofessional conduct for a licensed pharmacist includes the violation of any statutes of this state regulating controlled substances.

5. Business and Professions 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.

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

7. Health and Safety Code section 11171 provides that no person shall prescribe, administer, or furnish a controlled substance except under the conditions and in the manner provided by the state Uniform Controlled Substances Act, Health and Safety Code section 11000, et seq.

8. Health and Safety Code section 11173(a) provides, in pertinent part, that no person shall obtain, or attempt to obtain, controlled substances by fraud, deceit, misrepresentation, or subterfuge.

9. Health and Safety Code section 11350(a) provides, in pertinent part, that every person who possess any controlled substance which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in California, shall be punished by imprisonment in the state prison.

10. Health and Safety Code section 11377(a) provides, in pertinent part, that every person who possess any controlled substance which is a non-narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in California, shall be punished by imprisonment in a county jail for a period of not more than one year or in the state prison.

11. The pharmacist license held by Respondent is subject to discipline under Business and Professions Code sections 4300 and 4301, for committing unprofessional conduct within the meaning of Business and Professions Code section 4301(j), in that, by diverting and administering to himself controlled substances and dangerous drugs from Wal-Mart Pharmacy 2253 and Longs Drug Stores, as described above, Respondent violated Business and Professions Code section 4060 and Health and Safety Code sections 11170, 11171, 11173(a), 11350(a), and 11377(a), statutes that regulate controlled substances in this state. These conclusions are based on Factual Findings 1 through 18 and 19 through 21 and Legal Conclusions 4 through 11.

3. Respondent's Commission of an Act of Moral Turpitude is a Cause for Discipline

12. Business and Professions Code section 4301(f) provides that unprofessional conduct for a licensed pharmacist includes 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, whether the act is a felony or misdemeanor or not.

13. The pharmacist license held by Respondent is subject to discipline under Business and Professions Code sections 4300 and 4301, for committing unprofessional conduct within the meaning of Business and Professions Code section 4301(f), in that, by diverting controlled substances and dangerous drugs while he was working as a pharmacist at Wal-Mart Pharmacy 2253, as described above, and, by diverting controlled substances and personal property and by falsifying his time cards at Longs Drug Stores, as described above, Respondent committed acts of moral turpitude, dishonesty, fraud, deceit, or corruption. These conclusions are based on Factual Findings 1, 33, and 34, and Legal Conclusions 12 and 13.

4. Respondent's Dangerous Use of Controlled Substances is a Cause for Discipline

14. Business and Professions Code section 4301(h) provides that unprofessional conduct for a licensed pharmacist includes:

“The administering to oneself, of any controlled substance, or the use of any dangerous drug or alcoholic beverages to the extent or in the 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.”

15. The pharmacist license of Respondent is subject to discipline under Business and Professions Code sections 4300 and 4301, for committing unprofessional conduct within the meaning of Business and Professions Code section 4301(h), in that, Respondent used controlled substances, including drugs that contained hydrocodone, to the extent and in a manner that was dangerous to himself, and to the extent that such use impaired his ability to practice with safety to the public the profession of pharmacy, as described in paragraphs 15, 16, 20, and 21 above. These conclusions are based on Factual Findings 1 through 21 and Legal Conclusions 14 and 15.

5. Respondent's Being On Duty While Under the Influence is a Cause for Discipline

16. Business and Professions Code section 4301(o) provides that unprofessional conduct for a licensed pharmacist includes:

“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.”

17. Business and Professions Code section 4327 provides that "(A)ny person who, while on duty, sells, dispenses, or compounds any drug while under the influence of a dangerous drug or alcoholic beverages shall be guilty of a misdemeanor."

18. The pharmacist license of Respondent is subject to discipline under Business and Professions Code sections 4300 and 4301, for committing unprofessional conduct within the meaning of Business and Professions Code section 4301(o), in that, Respondent violated Business and Professions Code section 4327 by selling, dispensing, or compounding drugs while under the influence of dangerous drugs, as described in paragraphs 15 and 21 above. These conclusions are based on Factual Findings 1 through 21 and Legal Conclusions 16, 17, and 18.

Aggravating and Mitigating Factors

19. In aggravation, the violations involved a pattern of unprofessional conduct which resulted in the potential for great harm to the general public and to specific consumers as Respondent practiced his profession. Respondent stole drugs from his employer and self administered those drugs while he was working as a pharmacist. Respondent filled and dispensed prescriptions to consumers while he was under the influence of controlled substances.

20. In mitigation, there did not appear to be any actual harm to any individual during the period of Respondent's misconduct. There is no evidence of any prior disciplinary record with the Board and no prior criminal record for Respondent.

Recovery of Costs of Investigation and Enforcement

21. Business and Professions Code section 125.3 provides that, in any order issued in resolution of a disciplinary proceeding before any board within the Department of Consumer Affairs, the board may request the Administrative Law Judge to direct a licensee 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.

22. The certification of costs of the investigation and prosecution by the Board seeks a total of \$9,003.25, claiming a total of 43.25 hours of time for Inspector's costs and 43.25 hours of time for Attorney General's costs. In view of Respondent's admission of guilt, acceptance of responsibility from the first moment he was confronted about his conduct, and his willingness to enter into stipulations regarding the original Accusation and the First Amended Accusation, these costs are excessive. A total of \$4,000.00 for the Board's investigation and prosecution of this proceeding is a reasonable amount.

23. The certification of costs of prosecution by the California Department of Justice seeks a total of \$10,156.50, claiming a total of 69.5 hours of time incurred by the Attorney General's Office. For the same reasons discussed in the preceding paragraph, these costs are excessive. A total of \$5,000.00 for the Attorney General's costs of prosecution of this proceeding is a reasonable amount.

24. Pursuant to Business and Professions Code section 125.3, cause exists for Respondent

to pay the reasonable costs of investigation in the amount of \$4,000.00. Cause also exists for Respondent to pay the reasonable cost of enforcement in the amount of \$5,000.00. Respondent testified he has substantial financial obligations and it would be equitable for him to pay these amounts over his period of probation.

ORDER

Pharmacist License No. RPH 43678 issued to Ronald Bradley Haslam is revoked; the revocation is stayed and probation is imposed for a period of five (5) years. During the period of probation, respondent shall comply with the following terms and conditions of probation:

1. Actual Suspension.

As part of probation, respondent is suspended from the practice of pharmacy for thirty (30) days beginning the effective date of this decision.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee for any entity licensed by the board.

2. Tolling of Suspension

If respondent leaves California to reside or practice outside this state, for any period exceeding 10 days (including vacation), respondent must notify the board in writing of the dates of departure and return. Periods of residency or practice outside the state - or any absence exceeding a period of 10 days shall not apply to the reduction of the suspension period. Respondent shall not practice pharmacy upon returning to this state until notified by the board that the period of suspension has been completed.

3. 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 pharmacy license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distribution or billing or charging for of any drug, device or controlled substance.

4. Psychotherapy.

Within thirty (30) day of the effective date of this decision, respondent shall submit to the board, for its prior approval, the name and qualifications of a licensed mental health practitioner of respondent's choice. Should respondent, for any reason, cease treatment with the approved licensed mental health practitioner, respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement psychotherapist or licensed mental health practitioner of respondent's choice to the board for its prior approval.

Therapy shall be at least once a week unless otherwise determined by the board. Respondent shall provide the therapist with a copy of the board's accusation and decision no later than the first therapy session. Respondent shall take all necessary steps to ensure that the treating therapist submits written quarterly reports to the board concerning respondent's fitness to practice, progress in treatment, and to provide such other information as may be required by the board. If the treating therapist finds that respondent cannot practice safely or independently, the therapist shall notify the board immediately by telephone and followed up by written letter within three working days.

5. 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 or her current contract and any subsequent addendums with the PRP. Probation shall be automatically extended until respondent successfully completes his or her 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.

6. Random Drug Screening.

Respondent, at his or her 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.

7. 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.

8. 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 or her supervisor submit notification to the board in writing stating the supervisor has read the decision in case number 2797 and is familiar with the level of supervision as determined by the board.

If respondent changes employment, respondent shall have his or her 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 2797 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.

9. No Ownership of Premises.

Respondent shall not own, have any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the board within 90 days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the board.

10. 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.

11. 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.

12. 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 or her probation. Failure to comply shall be considered a violation of probation.

13. Continuing Education.

Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the board.

14. Notice to Employers.

Respondent shall notify all present and prospective employers of the decision in case number 2767, OAH No. L2005070878, 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 or her 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 2767, OAH No. L2005070878.

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 terms and conditions of the decision in case number 2767, OAH No. L2005070878, 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.

15. 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.

16. Reimbursement of Board Costs.

Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$9,000.00. Respondent shall make said payments as follows: In the event Respondent is not financially able to make a single payment of \$9,000.00, he may make periodic payments during his 60 months of probation at the rate of \$150.00 per month.

The filing of bankruptcy by respondent shall not relieve respondent of his or her responsibility to reimburse the board its costs of investigation and prosecution.

17. 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.

18. 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.

19. 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 or her 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 or her 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.

20. 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.

21. Tolling of Probation.

Should respondent, regardless of residency, for any reason cease practicing pharmacy for a minimum of 40 hours per calendar month in California, respondent must notify the board in writing within 10 days of cessation of the practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time shall not apply to the reduction of the probation period. It is a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding three years.

"Cessation of practice" means any period of time exceeding 30 days in which respondent is not engaged in the practice of pharmacy as defined in Section 4052 of the Business and Professions Code.

22. 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 a 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.


23. Completion of Probation.

Upon successful completion of probation, respondent's license will be fully restored.

This Decision shall become effective on August 31, 2007

IT IS SO ORDERED August 1, 2007.

By:



WILLIAM POWERS

President

State Board of Pharmacy

Department of Consumer Affairs

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8

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

12 In the Matter of the First Amended Accusation
Against:

Case No. 2797

13 RONALD BRADLEY HASLAM
14 5850 Jan Drive
La Mesa, CA 91942

FIRST AMENDED ACCUSATION

15 Pharmacist License No. RPH 43678

16 Respondent.
17

18 The Complainant, Virginia K. Herold, for cause of accusation against RONALD
19 BRADLEY HASLAM, alleges as follows:

20 PARTIES

21 1. The Complainant, Virginia K. Herold, is the Interim Executive Officer of
22 the California State Board of Pharmacy (hereinafter the "Board"), and makes this First Amended
23 Accusation solely in her official capacity.

24 2. On or about February 22, 2005, Accusation No. 2797 was filed against
25 Respondent RONALD BRADLEY HASLAM. This First Amended Accusation supersedes and
26 replaces the former Accusation that was filed on February 22, 2005 in this case.

27 3. On or about August 6, 1990, the Board issued Original Pharmacist License
28 Number RPH 43678 to respondent RONALD BRADLEY HASLAM (hereinafter respondent

1 "HASLAM"). At all times material herein, respondent HASLAM was and currently is licensed
2 by the Board as a registered pharmacist. The license expires on February 29, 2008, unless
3 renewed.

4 JURISDICTION

5 4. Complainant brings this First Amended Accusation under the power
6 vested in the Board in Business and Professions Code section 4300(a) to suspend or revoke
7 licenses issued by the Board pursuant to the California Pharmacy Act, Chapter 9, Division 2,
8 section 4000 et seq., of the Business and Professions Code.

9 5. Business and Professions Code section 4005(a) provides that the Board
10 may enact regulations, *inter alia*, for the proper and more effective enforcement of the California
11 Pharmacy Act. The regulations promulgated by the Board appear in the California Code of
12 Regulations, Title 16, Division 16, section 1700 et seq., and shall be referenced herein as the
13 "Board Regulations."

14 FACTS

15 Drugs

16 6. At all times material herein, Lortab was and is a trade name for the generic
17 drug hydrocodone with acetaminophen which is designated by Health and Safety Code section
18 11056(e)(4) as a narcotic drug and a Schedule III controlled substance, and by Business and
19 Professions Code section 4022 as a dangerous drug, and is used as a narcotic analgesic in the
20 relief of pain.

21 7. At all times material herein, Lorcet was and is a trade name for the generic
22 drug hydrocodone with acetaminophen which is designated by Health and Safety Code section
23 11056(e)(4) as a narcotic drug and a Schedule III controlled substance, and by Business and
24 Professions Code section 4022 as a dangerous drug, and is used as a narcotic analgesic in the
25 relief of pain.

26 8. At all times material herein, Norco was and is a trade name for the generic
27 drug hydrocodone with acetaminophen which is designated by Health and Safety Code section
28 11056(e)(4) as a narcotic drug and a Schedule III controlled substance, and by Business and

1 Professions Code section 4022 as a dangerous drug, and is used as a narcotic analgesic in the
2 relief of pain.

3 9. At all time material herein, Vicodin was and is a trade name for the
4 generic drug hydrocodone with acetaminophen which is designated by Health and Safety Code
5 section 11056(e)(4) as a narcotic drug and a Schedule III controlled substance, and by Business
6 and Professions Code section 4022 as a dangerous drug, and is used as a narcotic analgesic in the
7 relief of pain.

8 10. At all times material herein, Valium was and is a trade name for the
9 generic drug diazepam which is designated by Health and Safety Code section 11057(d)(3) as a
10 non-narcotic drug and a Schedule IV controlled substance, and by Business and Professions Code
11 section 4022 as a dangerous drug, and is used in the management of anxiety.

12 11. At all times material herein, Phentermine was and is designated by Health
13 and Safety Code section 11057(f)(2) as a Schedule IV controlled substance, and by Business and
14 Professions Code section 4022 as a dangerous drug, and is used as a stimulant.

15 12. At all times material herein, Xanax was and is a trade name for the generic
16 drug alprazolam which is designated by Health and Safety Code section 11057(d)(1) as a
17 Schedule IV controlled substance, and by Business and Professions Code section 4022 as a
18 dangerous drug, and is used in the treatment of anxiety.

19 13. At all times material herein, Trazadone was and is a trade name for the
20 generic drug desyrel which is a dangerous drug within the meaning of Business and Professions
21 Code section 4022, and used for the treatment of depression.

22 14. At all times material herein, Effexor was and is a trade name for the
23 generic drug venlafaxine which is a dangerous drug within the meaning of Business and
24 Professions Code section 4022, and used for the treatment of depression and generalized anxiety.

25 15. At all times material herein, Neurontin was and is a trade name for the
26 generic drug gabapentin which is a dangerous drug within the meaning of Business and
27 Professions Code section 4022, and used for adjunctive therapy in the treatment of partial
28 seizures.

1 16. At all times material herein, Clonidine was and is a trade name for the
2 generic drug catapres which is a dangerous drug within the meaning of Business and Professions
3 Code section 4022, and used for the treatment of hypertension.

4 17. At all times material herein, Viagra was and is a trade name for the generic
5 drug sildenafil which is a dangerous drug within the meaning of Business and Professions Code
6 section 4022, and used for erectile dysfunction.

7 Wal Mart Pharmacy 2253

8 18. In February and March, 2004, respondent HASLAM was employed as a
9 pharmacist at Wal Mart Pharmacy 2253, located in El Cajon, California.

10 19. During February 2004, Wal Mart placed a surveillance camera in
11 Pharmacy 2253. The tape from the surveillance camera on February 24, 2004 shows respondent
12 HASLAM selecting a bottle from a shelf within the pharmacy, opening the bottle and consuming
13 medication from the bottle. Complainant is informed and believes, and thereon alleges, that,
14 after consuming the medication as revealed in the surveillance video, respondent, while on duty
15 as a pharmacist, sold, dispensed and compounded drugs at Wal Mart Pharmacy 2253.

16 20. On March 10, 2004, agents from the Bureau of Narcotic Enforcement
17 confronted respondent HASLAM with controlled substances and dangerous drugs that were
18 missing from Wal-Mart Pharmacy 2253. At this time, respondent admitted to the agents that he
19 was ingesting up to eight tablets per day of controlled substances that contained hydrocodone.
20 On the same day, respondent permitted the agents to search his person and residence. In the
21 search, the agents found the following controlled substances and dangerous drugs that respondent
22 diverted from Wal Mart Pharmacy 2253 during February and March, 2004:

Drug	Amount
Lortab	34
Lorcet	13
Norco	22
Trazadone 100 mg	12
Trazadone 50 mg	82

1	Phentermine	1
2	Valium	130+
3	Viagra	11
4	Neurontin	1
5	Clonidine	1

6 21. On or about March 17, 2004, in the Superior Court of California, County
7 of San Diego, East County Division, in a case entitled *People v. Ronald Bradley Haslam*, Case
8 No. C238398, respondent was convicted on his plea of guilty of violating Penal Code section
9 487(b)(3) (grand theft by employee), a misdemeanor. The facts and circumstances behind this
10 conviction relate to respondent's diversion of controlled substances from Wal Mart Pharmacy
11 2253, described in paragraphs 19 and 20 hereinabove.

12 22. As punishment for his conviction under Penal Code section 487(b)(3),
13 respondent HASLAM was placed on probation for two years, with 180 days in custody stayed
14 pending successful completion of probation, and ordered to pay a fine of \$500 and a restitution
15 fine of \$100.

16 **Longs Drug Stores**

17 23. On or about March 25, 2004, respondent HASLAM completed an
18 Employment Application to work as a pharmacist at Longs Drug Stores. In the Employment
19 Application, respondent failed to reference his employment at Wal Mart Pharmacy 2253.
20 Longs Drug Stores hired respondent to work as a "floater" pharmacist at drug stores in the
21 San Diego area.

22 24. On or about June 14, 2004, managers for Longs Drug Store confronted
23 respondent HASLAM regarding missing personal property, time card discrepancies and missing
24 medications. At that time, respondent admitted that he had taken a cordless phone set and a
25 boom box from Longs Drug Store # 274. These items were subsequently returned. Respondent
26 also admitted that there was a total of 20 minutes on his time cards for which he was not entitled
27 to receive payment. Respondent also admitted that he diverted for his personal use the following
28 controlled substances and dangerous drugs from various Longs Drug Stores where he worked:

	Drug	Amount
1		
2	Vicodin	300
3	Norco	140
4	Xanax	35
5	Effexor	24

6 25. On June 14, 2004, respondent HASLAM admitted to the managers at
7 Longs Drug Stores that he diverted the above-described medications due to medical conditions
8 that he was experiencing. Complainant is informed and believes, and thereon alleges, that
9 respondent consumed the drugs described in paragraph 24 hereinabove when he was on duty as
10 a pharmacist at Longs Drug Stores, and that he sold, dispensed and compounded drugs while
11 under the influence of such medications.

12 FIRST CAUSE FOR DISCIPLINE

13 (Substantially Related Conviction)

14 26. Complainant incorporates herein by this reference the preamble and each
15 of the allegations set forth in paragraphs 1 through 22 hereinabove.

16 27. Business and Professions Code section 4301 provides that the Board shall
17 take action against any holder of a license who is guilty of unprofessional conduct.

18 28. Business and Professions Code section 4301(1) provides that
19 unprofessional conduct for a licensed pharmacist includes the conviction of a crime substantially
20 related to the qualifications, functions and duties of a licensee under the California Pharmacy
21 Act.

22 29. Board Regulation 1770 provides that a crime shall be considered
23 substantially related to the qualifications, functions or duties of a licensee if to a substantial
24 degree it evidences present or potential unfitness of a licensee to perform the functions
25 authorized by his or her license in a manner consistent with the public health, safety, or welfare.

26 30. The pharmacist license held by respondent HASLAM is subject to
27 discipline under Business and Professions Code sections 4300 and 4301, for unprofessional
28 conduct within the meaning of Business and Professions Code section 4301(1), in that,

1 respondent was convicted of a crime that is substantially related to the qualifications, functions
2 and duties of a pharmacist, as described in paragraphs 21 and 22 hereinabove.

3 SECOND CAUSE FOR DISCIPLINE

4 (Violations of Statutes Regulating Controlled Substances)

5 31. Complainant incorporates herein by this reference the preamble and each
6 of the allegations set forth in paragraphs 1 through 20, 23 through 25 and 27 hereinabove.

7 32. Business and Professions Code section 4060 provides, in pertinent part,
8 that no person shall possess any controlled substance, except that furnished to a person upon the
9 prescription of a physician, dentist, podiatrist, or veterinarian.

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

12 34. Health and Safety Code section 11171 provides that no person shall
13 prescribe, administer, or furnish a controlled substance except under the conditions and in the
14 manner provided by the state Uniform Controlled Substances Act, Health and Safety Code
15 section 11000 et seq.

16 35. Health and Safety Code section 11173(a) provides, in pertinent part, that
17 no person shall obtain, or attempt to obtain controlled substances by fraud, deceit,
18 misrepresentation, or subterfuge.

19 36. Health and Safety Code section 11350(a) provides, in pertinent part, that
20 every person who possesses any controlled substance which is a narcotic drug, unless upon the
21 written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in
22 California, shall be punished by imprisonment in the state prison.

23 37. Health and Safety Code section 11377(a) provides, in pertinent part, that
24 every person who possesses any controlled substance which is a non-narcotic drug, unless upon
25 the prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in
26 California, shall be punished by imprisonment in a county jail for a period of not more than one
27 year or in the state prison.

28 ///

1 FOURTH CAUSE FOR DISCIPLINE

2 (Dangerous Use of Controlled Substances)

3 43. Complainant incorporates herein by this reference the preamble and each
4 of the allegations set forth in paragraphs 1 through 25 and 27 hereinabove.

5 44. Business and Professions Code section 4301 (h) provides that
6 unprofessional conduct for a licensed pharmacist includes:

7 The administering to oneself, of any controlled substance,
8 or the use of any dangerous drug or alcoholic beverages to the
9 extent or in a manner as to be dangerous or injurious to oneself, to
10 a person holding a license under this chapter, or to any other person
11 or to the public, or to the extent that the use impairs the ability of
12 the person to conduct with safety to the public the practice
13 authorized by the license.

14 45. The pharmacist license of respondent HASLAM is subject to discipline
15 under Business and Professions Code sections 4300 and 4301, for committing unprofessional
16 conduct within the meaning of Business and Professions Code section 4301(h), in that,
17 respondent used controlled substances, including drugs that contained hydrocodone, to the extent
18 and in a manner that was dangerous to himself, and to the extent that such use impaired his
19 ability to practice with safety to the public the profession of pharmacy, as described in paragraphs
20 19, 20, 24 and 25 hereinabove.

21 FIFTH CAUSE FOR DISCIPLINE

22 (On Duty Under the Influence)

23 46. Complainant incorporates herein by this reference the preamble and each
24 of the allegations set forth in paragraphs 1 through 25 and 27 hereinabove.

25 47. Business and Professions Code section 4301 (o) provides that
26 unprofessional conduct for a licensed pharmacist includes:

27 Violating or attempting to violate, directly or indirectly, or assisting
28 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.

29 ///

30 ///

1 which provides for the recovery by the Board of the costs of investigation and enforcement of
2 this case against respondent HASLAM, according to proof.

3 WHEREFORE, Complainant prays that a hearing be had and that the Board of
4 Pharmacy make its Order:

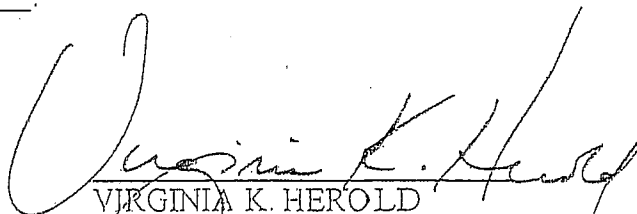
5 1. Revoking or suspending Pharmacist License Number RPH 43678 issued to
6 respondent RONALD BRADLEY HASLAM.

7 2. Prohibiting respondent RONALD BRADLEY HASLAM from serving as
8 a manager, administrator, owner, member, officer, director, associate, or partner of a licensee,
9 pursuant to the provisions of Business and Professions Code section 4307(a).

10 3. Directing respondent RONALD BRADLEY HASLAM to pay the
11 California State Board of Pharmacy the reasonable costs of the investigation and prosecution of
12 this matter pursuant to Business and Professions Code section 125.3; according to proof.

13 4. Taking such further action as is deemed necessary and proper.

14
15 DATED: 8/8/06

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18 

19 VIRGINIA K. HEROLD
20 Interim Executive Officer
21 California State Board of Pharmacy
22 Department of Consumer Affairs

23
24 Attorneys for Complainant

