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

In the Matter of the Accusation Against:

Case No. 3238

**ROMY RELINGO** 

266 Irvington Street Daly City, CA 94014

Original Pharmacy Technician Registration No. TCH 46262

Respondent.

## **DECISION AND ORDER**

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

This decision shall become effective on April 8, 2010.

It is so ORDERED on March 9, 2010.

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

Anneth M. Scheel

By

KENNETH H. SCHELL

**Board President** 

RECEIVED BY CALIF BOARD OF PHARMACY 1 EDMUND G. BROWN JR. Attorney General of California 2009 DEC 15 PM 2:59 2. FRANK H. PACOE Supervising Deputy Attorney General 3 Joshua A. Room Deputy Attorney General 4 State Bar No. 214663 455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004 5 Telephone: (415) 703-1299 6 Facsimile: (415) 703-5480 Attorneys for Complainant 7 BEFORE THE 8 **BOARD OF PHARMACY** DEPARTMENT OF CONSUMER AFFAIRS 9 STATE OF CALIFORNIA 10 In the Matter of the Accusation Against: Case No. 3238 11 ROMY RYAN RELINGO OAH No. 2009080898 12 266 Irvington Street Daly City, CA 94014 STIPULATED SURRENDER OF 13 LICENSE AND ORDER Pharmacy Technician License No. TCH 46262 14 Respondent. 15 16 In the interest of a prompt and speedy resolution of this matter, consistent with the public 17 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs 18 the parties hereby agree to the following Stipulated Surrender of License and Order which will be 19 submitted to the Board for approval and adoption as the final disposition of the Accusation. 2.0 PARTIES 21 1. Virginia Herold (Complainant), Executive Officer of the Board of Pharmacy, brought 2.2. this action solely in her official capacity and is represented in this matter by Edmund G. Brown 23 Jr., Attorney General of the State of California, by Joshua A. Room, Deputy Attorney General. 24 2. Romy Ryan Relingo (Respondent) is representing himself in this proceeding and has 25 chosen not to exercise his right to be represented by counsel. 26 On or about June 30, 2003, the Board of Pharmacy issued Pharmacy Technician

License No. TCH 46262 to Romy Ryan Relingo (Respondent). The Pharmacy Technician

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License was in full force and effect at all times relevant to the charges brought in Accusation No. 3238 and will expire on July 31, 2011, unless renewed.

### JURISDICTION

Accusation No. 3238 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on June 1, 2009. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 3238 is attached as exhibit A and incorporated herein by reference.

### ADVISEMENT AND WAIVERS

- 5. Respondent has carefully read and understands the charges and allegations in Accusation No. 3238. Respondent also has carefully read and understands the effects of this Stipulated Surrender of License and Order.
- 6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation, the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

#### CULPABILITY

- 8. Respondent admits the truth of each and every charge and allegation in Accusation No. 3238, agrees that cause exists for discipline and hereby surrenders his Pharmacy Technician Registration No. TCH 46262 for the Board's formal acceptance.
- 9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Pharmacy Technician Registration without further process.

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### RESERVATION

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

### CONTINGENCY

- 11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.
- 12. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.
- 13. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.
- 14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

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### ORDER

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 46262, issued to Respondent Romy Ryan Relingo, is surrendered and accepted by the Board of Pharmacy.

- 15. The surrender of Respondent's Pharmacy Technician License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.
- 16. Respondent shall lose all rights and privileges as a Pharmacy Technician in California as of the effective date of the Board's Decision and Order.
- 17. Respondent shall cause to be delivered to the Board both his wall license certificate and, if one was issued, pocket license, on or before the effective date of the Decision and Order.
- 18. Respondent may not apply, reapply, or petition for any licensure or registration of the Board for three (3) years from the effective date of the Decision and Order.
- 19. Respondent understands and agrees that if he ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 3238 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.
- 20. Should Respondent ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation No. 3238 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.
- 21. Respondent shall pay the Board its costs of investigation and enforcement in the amount of \$3,953.75 prior to issuance of a new or reinstated license.

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### · ACCEPTANCE

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

NOVEMBER 18, 2009 DATED:

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ROMY RYAN RELINGO Respondent

## **ENDORSEMENT**

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

Dated: DECEMBER 9,2009

Respectfully submitted,

EDMUND G. BROWN JR.
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General

Jøshua A. Room

Deputy Attorney General Attorneys for Complainant

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Exhibit A

Accusation No. 3238

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1	EDMUND G. BROWN JR., Attorney General of the State of California
2	FRANK H. PACOE Supervising Deputy Attorney General
3	JOSHUA A. ROOM, State Bar No. 214663  Deputy Attorney General
4	455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004
5	Telephone: (415) 703-1299 Facsimile: (415) 703-5480
6	Attorneys for Complainant
7	BEFORE THE
8	BOARD OF PHARMACY
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
10	
11	In the Matter of the Accusation Against:  Case No. 3238
	ROMY RYAN RELINGO 266 Irvington Street  ACCUSATION
12	266 Irvington Street Daly City, CA 94014  A C C U S A T I O N
13	Pharmacy Technician License No. TCH 46262
14	Respondent.
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17	Complainant alleges:
18	<u>PARTIES</u>
19	1. Virginia Herold (Complainant) brings this Accusation solely in her official
20	capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21	2. On or about June 30, 2003, the Board of Pharmacy issued Pharmacy
. 22	Technician Registration Number TCH 46262 to Romy Ryan Relingo (Respondent). The
23	Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
24	brought herein and will expire on July 31, 2009, unless renewed.
. 25	JURISDICTION
26	3. This Accusation is brought before the Board of Pharmacy (Board),
27	Department of Consumer Affairs, under the authority of the following laws. All section
28	references are to the Business and Professions Code (Code) unless otherwise indicated.
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- 4. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].
- 5. Section 4300(a) of the Code provides that every license issued by the Board may be suspended or revoked.
- 6. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Section 4402(a) of the Code provides that any pharmacist license that is not renewed within three years following its expiration may not be renewed, restored, or reinstated and shall be canceled by operation of law at the end of the three-year period. Section 4402(e) of the Code provides that any other license issued by the Board may be canceled by the Board if not renewed within 60 days after its expiration, and any license canceled in this fashion may not be reissued but will instead require a new application to seek reissuance.

## STATUTORY AND REGULATORY PROVISIONS

- 7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action against any holder of a license who is guilty of "unprofessional conduct," defined to include, but not be limited to, any of the following:
- (h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.
- (j) The violation of any of the statutes of this state, of any other state, or of the United States regulating controlled substances and dangerous drugs.
- (1) 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.
- 8. Section 490 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions or duties of the license.
  - 9. California Code of Regulations, title 16, section 1770, states:

"For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a 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."

- 10. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous drug or dangerous device except upon the prescription of an authorized prescriber.
- 11. Section 4060 of the Code provides, in pertinent part, that no person shall possess any controlled substance, except that furnished upon a valid prescription/drug order.
- 12. Health and Safety Code section 11170 provides that no person shall prescribe, administer, or furnish a controlled substance for himself or herself.
- 13. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess any controlled substance listed in Schedule II (Health and Safety Code section 11055), subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.
- 14. Health and Safety Code section 11357, in pertinent part, makes it unlawful for any person to possess marijuana or concentrated cannabis.
- 15. Health and Safety Code section 11550, in pertinent part, makes it unlawful for any person to use or be under the influence of any controlled substance listed in Schedule II, subdivision (b) or (c), except when administered by or under direction of an authorized licensee.

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

## CONTROLLED SUBSTANCES / DANGEROUS DRUGS

- 17. Section 4021 of the Code provides that a "controlled substance" is any substance listed in Division 10, Chapter 2 (Section 11053 et seq.) of the Health and Safety Code.
  - 18. Section 4022 of the Code states, in pertinent part:

"Dangerous drug' or 'dangerous device' means any drug or device unsafe for self-use, except veterinary drugs that are labeled as such, and includes the following:

- "(a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing without prescription,' 'Rx only,' or words of similar import.
- "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006."
- 19. **Marijuana** is a Schedule I controlled substance as designated by Health and Safety Code section 11054(d)(13), and a dangerous drug as designated by Business and Professions Code section 4022. It is a hallucinogenic drug.
- 20. Cocaine is a Schedule I (in base form) or Schedule II controlled substance as designated by Health and Safety Code sections 11054(f)(1) and 11055(b)(6) and a dangerous drug as designated by Business and Professions Code section 4022. It is a narcotic drug.

### FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

21. Respondent is subject to discipline under section 4301(l) and/or section 490 of the Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of a substantially related crime, in that on or about December 1, 2006, in a criminal case titled *People v. Romy Ryan Relingo*, Case No. NF361192 and/or SC063678 in San Mateo County Superior Court, Respondent was convicted of violating Health and Safety Code section 11350, subdivision (a) (Possession of Controlled Substance - cocaine), a felony, as follows:

- a. On or about September 1, 2006, Respondent was contacted by officers of the South San Francisco Police Department because he had parked an automobile blocking the sidewalk. As officers approached, Respondent attempted to discard some small items. In what was discarded and what was subsequently discovered on his person, Respondent was found to be in possession of three plastic baggies containing a substance later field tested as (base) cocaine (gross weight approximately 1.3 grams), and two plastic baggies containing marijuana (gross weight 1.7 grams). Respondent stated that the drugs belonged to him, that he had purchased the cocaine and marijuana two days prior, that his practice was to "lace" marijuana cigarettes with the cocaine, that he had last had a cocaine-laced marijuana cigarette earlier that day, and that he had been using "rock" cocaine ("crack") for seven (7) years. Respondent was placed under arrest on suspicion of violating (1) Health and Safety Code section 11350, subdivision (a) (Possession of Controlled Substance cocaine), a felony, and (2) Health and Safety Code section 11357, subdivision (b) (Possession of marijuana < 28.5 grams), a misdemeanor.
- b. On or about September 29, 2006, in *People v. Romy Ryan Relingo*, Case No. NF361192 and/or SC063678 in San Mateo County Superior Court, Respondent was charged with (1) violating Health and Safety Code section 11350, subdivision (a) (Possession of Controlled Substance **cocaine**), a felony, and (2) violating Health and Safety Code section 11357, subdivision (b) (Possession of **marijuana** < 28.5 grams), a misdemeanor.
- c. On or about December 1, 2006, Respondent pleaded *nolo contendere* to the first count of violating Health and Safety Code section 11350, subdivision (a) (Possession of Controlled Substance cocaine), a felony. On or about May 10, 2007, imposition of sentence was suspended in favor of supervised probation for three (3) years, on terms and conditions that include(d) search conditions, abstention, referral to treatment, and payment of fines and fees.

## SECOND CAUSE FOR DISCIPLINE

(Self-Administration of Controlled Substance)

22. Respondent is subject to discipline under section 4301(h) of the Code, in that Respondent, as described in paragraph 21, administered one or more controlled substances to himself, including cocaine and/or marijuana products.

# THIRD CAUSE FOR DISCIPLINE

(Furnishing of Controlled Substance)

23. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section 4059 of the Code in that Respondent, as described in paragraph 21 above, furnished to himself or another without a valid prescription, and/or conspired to furnish, and/or assisted or abetted furnishing of, a controlled substance.

## FOURTH CAUSE FOR DISCIPLINE

(Possession of Controlled Substance)

24. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section 4060 of the Code, and/or Health and Safety Code section 11350, in that Respondent, as described in paragraph 21 above, possessed, conspired to possess, and/or assisted in or abetted possession of **cocaine**, a controlled substance, without a prescription.

## FIFTH CAUSE FOR DISCIPLINE

(Possession of Controlled Substance)

25. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section 4060 of the Code, and/or Health and Safety Code section 11357, in that Respondent, as described in paragraph 21 above, possessed, conspired to possess, and/or assisted in or abetted possession of marijuana or concentrated cannabis, a controlled substance.

## SIXTH CAUSE FOR DISCIPLINE

(Self-Administration/Use of Controlled Substance)

26. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code, and/or Health and Safety Code section(s) 11170 and/or 11550, in that Respondent, as described in paragraph 21 above, self-administered/used, conspired to self-administer/use, and/or assisted in/abetted self-administration/use, of a controlled substance, without prescription.

## SEVENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

27. Respondent is subject to discipline under section 4301 of the Code in that Respondent, as described in paragraphs 21 to 25 above, engaged in unprofessional conduct.

### PRAYER

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

A. Revoking or suspending Pharmacy Technician License No. TCH 46262, issued to Romy Ryan Relingo (Respondent);

B. Ordering Respondent to pay the Board reasonable costs of investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

C. Taking such other and further action as is deemed necessary and proper.

DATED: 5/14/09

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VIRGINIA/HEROLD Executive Officer

Board of Pharmacy

Department of Consumer Affairs

State of California Complainant

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