

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

In the Matter of the Accusation Against:

Case No. 3298

ERIC DUANE OZIMY
3455 Oak Grove Circle
Stockton, California 95831

Registered Pharmacist No. RPH 36956
Respondent.

DECISION AND ORDER

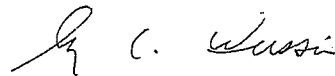
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on November 18, 2010.

It is so ORDERED on October 19, 2010.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY C. WEISSER
Board President

1 EDMUND G. BROWN JR.
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 GEOFFREY S. ALLEN
Deputy Attorney General
4 State Bar No. 193338
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5341
Facsimile: (916) 327-8643
7 E-mail: Geoffrey.Allen@doj.ca.gov
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 3298

12 **ERIC DUANE OZIMY**
13 3455 Oak Grove Circle
14 Stockton, California 95831

OAH No. 2010011278

15 Registered Pharmacist No. RPH 36956

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 Respondent.

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
22 She brought this action solely in her official capacity and is represented in this matter by Edmund
23 G. Brown Jr., Attorney General of the State of California, by Geoffrey S. Allen, Deputy Attorney
24 General.

25 2. Respondent Eric Duane Ozimy (Respondent) is represented in this proceeding by
26 attorney Albert M. Ellis, whose address is: Hakeem, Ellis, and Marengo, 3414 Brookside Rd.,
27 Ste. 110, Stockton, CA 95219.

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1. Actual Suspension of License

Respondent is suspended from the practice of pharmacy for thirty (30) days beginning the effective date of this decision.

2. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

Respondent shall report any of the following occurrences to the Board, in writing, within seventy-two (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 or federal agency which involves Respondent's Pharmacist License or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

Failure to timely report such occurrence shall be considered a violation of probation.

3. Report to the Board

Respondent shall report to the Board quarterly, on a schedule as directed by the Board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, Respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the Board.

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4. Interview with the Board

Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews with the Board or its designee, at such intervals and locations as are determined by the Board or its designee. Failure to appear for any scheduled interview without prior notification to Board staff, or failure to appear for two (2) or more scheduled interviews with the Board or its designee during the period of probation, shall be considered a violation of probation.

5. Cooperate with Board Staff

Respondent shall cooperate with the Board's inspection program and with the Board's monitoring and investigation of Respondent's compliance with the terms and conditions of his probation. Failure to cooperate shall be considered a violation of probation.

6. Continuing Education

Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board or its designee.

7. Notice to Employers

During the period of probation, Respondent shall notify all present and prospective employers of the decision in Board case number 3298 and the terms, conditions and restrictions imposed on Respondent by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of Respondent undertaking any new employment, Respondent shall cause his direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's tenure of employment) and owner to report to the Board in writing acknowledging that the listed individual(s) has/have read the decision in Board case number 3298, and terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

If Respondent works for or is employed by or through a pharmacy employment service, Respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity licensed by the Board of the terms and conditions of the decision in Board case number 3298 in

1 advance of the Respondent commencing work at each licensed entity. A record of this
2 notification must be provided to the Board upon request.

3 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
4 (15) days of Respondent undertaking any new employment by or through a pharmacy
5 employment service, Respondent shall cause his direct supervisor with the pharmacy employment
6 service to report to the Board in writing acknowledging that he has read the decision in Board
7 case number 3298 and the terms and conditions imposed thereby. It shall be Respondent's
8 responsibility to ensure that his employer(s) and/or supervisor(s) submit timely
9 acknowledgment(s) to the Board.

10 Failure to timely notify present or prospective employer(s) or to cause that/those
11 employer(s) to submit timely acknowledgments to the Board shall be considered a violation of
12 probation.

13 "Employment" within the meaning of this provision shall include any full-time,
14 part-time, temporary, relief or pharmacy management service as a pharmacist or any
15 position for which a pharmacist license is a requirement or criterion for employment,
16 whether the respondent is an employee, independent contractor or volunteer.

17 **8. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
18 **Designated Representative-in-Charge, or Serving as a Consultant**

19 During the period of probation, Respondent shall not supervise any intern pharmacist, be
20 the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the
21 Board nor serve as a consultant unless otherwise specified in this order. Assumption of any such
22 unauthorized supervision responsibilities shall be considered a violation of probation.

23 **9. Reimbursement of Board Costs**

24 As a condition precedent to successful completion of probation, Respondent shall pay to the
25 Board its costs of investigation and prosecution in the amount of \$2,249.50. Respondent shall
26 make said payments as approved by the Board.

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1 There shall be no deviation from this schedule absent prior written approval by the Board or
2 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
3 probation.

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

6 **10. Probation Monitoring Costs**

7 Respondent shall pay any costs associated with probation monitoring as determined by the
8 board each and every year of probation. Such costs shall be payable to the Board on a schedule
9 as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed
10 shall be considered a violation of probation.

11 **11. Status of License**

12 Respondent shall, at all times while on probation, maintain an active, current license with
13 the Board, including any period during which suspension or probation is tolled. Failure to
14 maintain an active, current license shall be considered a violation of probation.

15 If Respondent's License expires or is cancelled by operation of law or otherwise at any time
16 during the period of probation, including any extensions thereof due to tolling or otherwise, upon
17 renewal or reapplication Respondent's License shall be subject to all terms and conditions of this
18 probation not previously satisfied.

19 **12. License Surrender While on Probation/Suspension**

20 Following the effective date of this decision, should Respondent cease practice due to
21 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
22 Respondent may tender his License to the Board for surrender. The Board or its designee shall
23 have the discretion whether to grant the request for surrender or take any other action it deems
24 appropriate and reasonable. Upon formal acceptance of the surrender of the License, Respondent
25 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
26 record of discipline and shall become a part of the Respondent's license history with the Board.

27 Upon acceptance of the surrender, Respondent shall relinquish his pocket and wall license
28 to the Board within ten (10) days of notification by the Board that the surrender is accepted.

1 Respondent may not reapply for any license from the Board for three (3) years from the effective
2 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
3 of the date the application for that license is submitted to the Board, including any outstanding
4 costs.

5 **13. Notification of a Change in Name, Residence Address, Mailing Address or**
6 **Employment**

7 Respondent shall notify the Board in writing within ten (10) days of any change of
8 employment. Said notification shall include the reasons for leaving, the address of the new
9 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
10 shall further notify the Board in writing within ten (10) days of a change in name, residence
11 address, mailing address, or phone number.

12 Failure to timely notify the Board of any change in employer(s), name(s), address(es), or
13 phone number(s) shall be considered a violation of probation.

14 **14. Tolling of Probation**

15 Except during periods of suspension, Respondent shall, at all times while on probation, be
16 employed as a pharmacist in California for a minimum of forty (40) hours per calendar month.
17 Any month during which this minimum is not met shall toll the period of probation, i.e., the
18 period of probation shall be extended by one month for each month during which this minimum is
19 not met. During any such period of tolling of probation, Respondent must nonetheless comply
20 with all terms and conditions of probation.

21 Should Respondent, regardless of residency, for any reason (including vacation) cease
22 practicing as a pharmacist for a minimum of forty (40) hours per calendar month in California,
23 Respondent must notify the Board in writing within ten (10) days of the cessation of practice, and
24 must further notify the Board in writing within ten (10) days of the resumption of practice. Any
25 failure to provide such notification(s) shall be considered a violation of probation.

26 It is a violation of probation for Respondent's probation to remain tolled pursuant to the
27 provisions of this condition for a total period, counting consecutive and non-consecutive months,
28 exceeding thirty-six (36) months.

1 "Cessation of practice" means any calendar month during which respondent is
2 not practicing as a pharmacist for at least forty (40) hours, as defined by Business and
3 Professions Code section 4000 et seq . "Resumption of practice" means any calendar
4 month during which respondent is practicing as a pharmacist for at least forty (40)
5 hours as a pharmacist as defined by Business and Professions Code section 4000 et
6 seq.

7 **15. Violation of Probation**

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

13 If Respondent violates probation in any respect, the Board, after giving respondent notice
14 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
15 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
16 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
17 a petition to revoke probation or an accusation is filed against Respondent during probation, the
18 Board shall have continuing jurisdiction and the period of probation shall be automatically
19 extended until the petition to revoke probation or accusation is heard and decided.

20 **16. Completion of Probation**

21 Upon written notice by the Board or its designee indicating successful completion of
22 probation, Respondent's License will be fully restored.

23 **17. Suspension**

24 During suspension, Respondent shall not enter any pharmacy area or any portion of the
25 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
26 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices
27 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
28 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient

1 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
2 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
3 and devices or controlled substances.

4 Respondent shall not engage in any activity that requires the professional judgment of a
5 pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy.
6 Respondent shall not perform the duties of a pharmacy technician or a designated representative
7 for any entity licensed by the Board.

8 Subject to the above restrictions, Respondent may continue to own or hold an interest in
9 any licensed premises in which he holds an interest at the time this decision becomes effective
10 unless otherwise specified in this order.

11 Failure to comply with this suspension shall be considered a violation of probation.

12 **18. Pharmacists Recovery Program (PRP)**

13 Within thirty (30) days of the effective date of this decision, Respondent shall contact the
14 Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll,
15 successfully participate in, and complete the treatment contract and any subsequent addendums as
16 recommended and provided by the PRP and as approved by the Board or its designee. The costs
17 for PRP participation shall be borne by the Respondent.

18 If Respondent is currently enrolled in the PRP, said participation is now mandatory and as
19 of the effective date of this decision is no longer considered a self-referral under Business and
20 Professions Code section 4362(c)(2). Respondent shall successfully participate in and complete
21 his current contract and any subsequent addendums with the PRP.

22 Failure to timely contact or enroll in the PRP, or successfully participate in and complete
23 the treatment contract and/or any addendums, shall be considered a violation of probation.

24 Probation shall be automatically extended until Respondent successfully completes the
25 PRP. Any person terminated from the PRP program shall be automatically suspended by the
26 Board. Respondent may not resume the practice of pharmacy until notified by the Board in
27 writing.

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1 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
2 licensed practitioner as part of a documented medical treatment shall result in the automatic
3 suspension of practice by Respondent and shall be considered a violation of probation.

4 Respondent may not resume the practice of pharmacy until notified by the Board in writing.

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

13 During suspension, Respondent shall not engage in any activity that requires the
14 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
15 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
16 designated representative for any entity licensed by the Board.

17 Subject to the above restrictions, Respondent may continue to own or hold an interest in
18 any licensed premises in which he holds an interest at the time this decision becomes effective
19 unless otherwise specified in this order.

20 Failure to comply with this suspension shall be considered a violation of probation.

21 Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not
22 timely paid to the PRP shall constitute a violation for probation. The Board will collect unpaid
23 administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

24 19. Random Drug Screening

25 Respondent, at his own expense, shall participate in random testing, including but not
26 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
27 screening program as directed by the Board or its designee. Respondent may be required to
28 participate in testing for the entire probation period and the frequency of testing will be

1 determined by the Board or its designee. At all times, Respondent shall fully cooperate with the
2 Board or its designee, and shall, when directed, submit to such tests and samples for the detection
3 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the Board or
4 its designee may direct. Failure to timely submit to testing as directed shall be considered a
5 violation of probation. Upon request of the Board or its designee, Respondent shall provide
6 documentation from a licensed practitioner that the prescription for a detected drug was
7 legitimately issued and is a necessary part of the treatment of the Respondent. Failure to timely
8 provide such documentation shall be considered a violation of probation. Any confirmed positive
9 test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a
10 documented medical treatment shall be considered a violation of probation and shall result in the
11 automatic suspension of practice of pharmacy by Respondent. Respondent may not resume the
12 practice of pharmacy until notified by the Board in writing.

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

21 During suspension Respondent shall not engage in any activity that requires the
22 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
23 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
24 designated representative for any entity licensed by the Board.

25 Subject to the above restrictions, Respondent may continue to own or hold an interest in
26 any licensed premises in which he holds an interest at the time this decision becomes effective
27 unless otherwise specified in this order.

28 Failure to comply with this suspension shall be considered a violation of probation.

1 **20. Abstain from Drugs and Alcohol Use**

2 Respondent shall completely abstain from the possession or use of alcohol, controlled
3 substances, dangerous drugs and their associated paraphernalia except when the drugs are
4 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon
5 request of the Board or its designee, Respondent shall provide documentation from the licensed
6 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the
7 treatment of the Respondent. Failure to timely provide such documentation shall be considered a
8 violation of probation. Respondent shall ensure that he is not in the same physical location as
9 individuals who are using illicit substances even if Respondent is not personally ingesting the
10 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
11 not supported by the documentation timely provided, and/or any physical proximity to persons
12 using illicit substances, shall be considered a violation of probation.

13 **21. Community Services Program**

14 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
15 Board or its designee, for prior approval, a community service program in which Respondent
16 shall provide free health-care related services on a regular basis to a community or charitable
17 facility or agency for at least two hundred (200) hours during the period of probation. Within
18 thirty (30) days of Board approval thereof, Respondent shall submit documentation to the Board
19 demonstrating commencement of the community service program. A record of this notification
20 must be provided to the Board upon request. Respondent shall report on progress with the
21 community service program in the quarterly reports. Failure to timely submit, commence, or
22 comply with the program shall be considered a violation of probation.

23 **22. Prescription Coordination and Monitoring of Prescription Use**

24 Within thirty (30) days of the effective date of this decision, Respondent shall submit to the
25 Board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
26 physician assistant, or psychiatrist of Respondent's choice, who shall be aware of the
27 Respondent's history with the use of alcohol, controlled substances, and/or dangerous drugs and
28 who will coordinate and monitor any prescriptions for Respondent for dangerous drugs,

1 controlled substances or mood-altering drugs. The approved practitioner shall be provided with a
2 copy of the Board's Accusation and decision. A record of this notification must be provided to
3 the Board upon request. Respondent shall sign a release authorizing the practitioner to
4 communicate with the Board about Respondent's treatment(s). The coordinating physician, nurse
5 practitioner, physician assistant, or psychiatrist shall report to the Board on a quarterly basis for
6 the duration of probation regarding Respondent's compliance with this condition. If any
7 substances considered addictive have been prescribed, the report shall identify a program for the
8 time limited use of any such substances. The Board may require that the single coordinating
9 physician, nurse practitioner, physician assistant or psychiatrist be a specialist in addictive
10 medicine, or consult a specialist in addictive medicine. Should Respondent, for any reason, cease
11 supervision by the approved practitioner, Respondent shall notify the Board immediately and,
12 within thirty (30) days of ceasing treatment, submit the name of a replacement physician, nurse
13 practitioner, physician assistant, or psychiatrist of Respondent's choice to the Board or its
14 designee for its prior approval. Failure to timely submit the selected practitioner or replacement
15 practitioner to the Board for approval, or to ensure the required reporting thereby on the quarterly
16 reports, shall be considered a violation of probation.

17 If at any time an approved practitioner determines that Respondent is unable to practice
18 safely or independently as a pharmacist, the practitioner shall notify the Board immediately by
19 telephone and follow up by written letter within three (3) working days. Upon notification from
20 the Board or its designee of this determination, Respondent shall be automatically suspended and
21 shall not resume practice until notified by the Board that practice may be resumed.

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

1 and controlled substances. Respondent shall not resume practice until notified by the Board.

2 During suspension, Respondent shall not engage in any activity that requires the
3 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
4 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
5 designated representative for any entity licensed by the Board.

6 Subject to the above restrictions, Respondent may continue to own or hold an interest in
7 any licensed premises in which he holds an interest at the time this decision becomes effective
8 unless otherwise specified in this order.

9 Failure to comply with this suspension shall be considered a violation of probation.

10 **23. Supervised Practice**

11 During the period of probation, Respondent shall practice only under the supervision of a
12 licensed pharmacist not on probation with the Board. Upon and after the effective date of this
13 decision, Respondent shall not practice pharmacy and his license shall be automatically
14 suspended until a supervisor is approved by the Board or its designee. The supervision shall be,
15 as required by the Board or its designee, either:

16 Continuous – At least 75% of a work week

17 Substantial - At least 50% of a work week

18 Partial - At least 25% of a work week

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

20 Within thirty (30) days of the effective date of this decision, Respondent shall have his
21 supervisor submit notification to the Board in writing stating that the supervisor has read the
22 decision in Board case number 3298 and is familiar with the required level of supervision as
23 determined by the Board or its designee. It shall be the Respondent's responsibility to ensure that
24 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
25 the Board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
26 acknowledgements to the Board shall be considered a violation of probation.

27 If Respondent changes employment, it shall be the Respondent's responsibility to ensure
28 that his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely

1 acknowledgement(s) to the Board. Respondent shall have his new supervisor, within fifteen (15)
2 days after employment commences, submit notification to the Board in writing stating the direct
3 supervisor and pharmacist-in-charge have read the decision in Board case number 3298 and is
4 familiar with the level of supervision as determined by the Board. Respondent shall not practice
5 pharmacy and his license shall be automatically suspended until the Board or its designee
6 approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to
7 submit timely acknowledgements to the Board shall be considered a violation of probation.

8 Within ten (10) days of leaving employment, Respondent shall notify the Board in writing.

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

17 During suspension, Respondent shall not engage in any activity that requires the
18 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
19 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
20 designated representative for any entity licensed by the Board.

21 Subject to the above restrictions, Respondent may continue to own or hold an interest in
22 any licensed premises in which he holds an interest at the time this decision becomes effective
23 unless otherwise specified in this order.

24 Failure to comply with this suspension shall be considered a violation of probation.

25 **24. Separate File of Records**

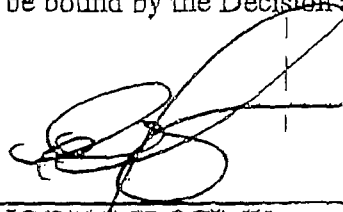
26 Respondent shall maintain and make available for inspection a separate file of all records
27 pertaining to the acquisition or disposition of all controlled substances. Failure to maintain such
28 file or make it available for inspection shall be considered a violation of probation.

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ACCEPTANCE

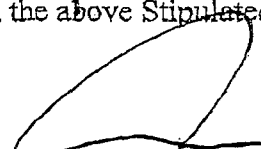
I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Albert M. Ellis. I understand the stipulation and the effect it will have on my License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 8-12-10


ERIC DUANE OZIMY
Respondent

I have read and fully discussed with Respondent Eric Duane Ozimy the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 8/12/10



ALBERT M. ELLIS
Attorney for Respondent

ENDORSEMENT

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

Dated: 8/12/10

Respectfully Submitted,
EDMUND G. BROWN JR.
Attorney General of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General


GEOFFREY S. ALLEN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 3298

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 GEOFFREY S. ALLEN, State Bar No. 193338
Deputy Attorney General
4 1300 I Street, Suite 125
P.O. Box 944255
5 Sacramento, CA 94244-2550
Telephone: (916) 324-5341
6 Facsimile: (916) 327-8643
E-mail: Geoffrey.Allen@doj.ca.gov

7 Attorneys for Complainant

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Stockton, California 95831

OAH Case No.

A C C U S A T I O N

14 Registered Pharmacist No. RPH 36956

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

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

22 2. On or about August 16, 1982, the Board of Pharmacy issued Registered
23 Pharmacist License Number RPH 36956 (License) to Eric Duane Ozimy (Respondent). The
24 License will expire on February 28, 2010, unless renewed.

25 JURISDICTION

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

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4. Section 4301 of the Code, in pertinent part, states:

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

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

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

....
(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action 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 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

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

1 FIRST CAUSE FOR DISCIPLINE

2 (Criminal Conviction)

3 6. Respondent is subject to disciplinary action under Code section 4301,
4 subd. (l) in that Respondent has been convicted of a crime substantially related to the
5 qualifications, functions and duties of a pharmacist. The circumstances are as follows:

6 7. On or about, August 8, 2006, in the Superior Court of California, County
7 of San Joaquin, in the case entitled, *People of the State of California v. Eric Duane Ozimy*
8 (Super. Ct. San Joaquin County, 2006, Case No. ST042341A), Respondent was convicted on his
9 plea of nolo contendere of violating Vehicle Code section 23152(a) (Driving Under the Influence
10 of Alcohol or Drugs), a misdemeanor.

11 8. The circumstances of the crime are that on or about March 17, 2006,
12 Officers Guerrero and Harris of the Stockton Police Department responded to a report of a
13 vehicle collision with injury. Upon their arrival at the scene they discovered a solo vehicle
14 collision had occurred involving Respondent who had struck and severed a tree and then struck a
15 brick planter. Respondent requested medical treatment for facial injuries and body pain and was
16 transported to the county hospital. Officer Asklof of the Stockton Police Department then
17 arrived to assist Officers Guerrero and Harris. Officer Asklof proceeded to the hospital to
18 interview Respondent. During the interview Respondent was incoherent and admitted to
19 consuming alcoholic beverages prior to the crash. Officer Asklof observed Respondent's eyes
20 to be bloodshot and watery, his speech was slurred, and he had an odor of alcohol on his breath.
21 Respondent was placed under arrest by the Stockton Police Department of violating Vehicle
22 Code section 23152(a) (Driving Under the Influence of Alcohol or Drugs), a misdemeanor.
23 Respondent submitted a blood sample for testing. The results of the toxicology analysis showed
24 a Blood Alcohol Content of 0.00% and a positive result for opiates, namely hydrocodone
25 (Vicodin¹) and zolpidem (Ambien²).

26 _____
27 1. Vicodin is a brand name compound consisting of 5, 7.5 or 10 mg hydrocodone bitartrate
28 also known as dihydrocodeinone, a Schedule III narcotic controlled substance as designated by
Health and Safety Code section 11056(e)(4), and 325 or 500 mg acetaminophen per tablet, and

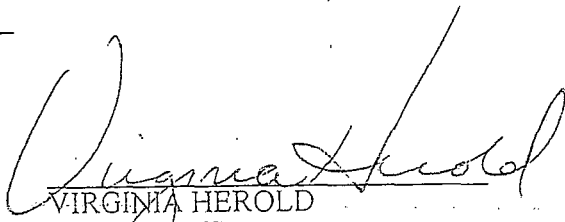
1 placed on probation for a period of five years. Respondent was also suspended from the practice
2 of pharmacy for one year. Respondent's return to practice was contingent upon the approval of
3 the Board and the successful completion of the Pharmacist Recovery Program.

4 PRAYER

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

- 7 1. Revoking or suspending Registered Pharmacist Number RPH 36956,
8 issued to Eric Duane Ozimy.
- 9 2. Ordering Eric Duane Ozimy, to pay the Board of Pharmacy the reasonable
10 costs of the investigation and enforcement of this case, pursuant to Business and Professions
11 Code section 125.3;
- 12 3. Taking such other and further action as deemed necessary and proper.

13
14 DATED: 10/6/09



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

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DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL
(Separate Mailings)

Case Name: In the Matter of the Accusation Against: Eric Duane Ozimy
Board of Pharmacy Case No. 3298

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On October 23, 2009, I served the attached **ACCUSATION; STATEMENT TO RESPONDENT; REQUEST FOR DISCOVERY; NOTICE OF DEFENSE (two blank forms); and COPY OF GOVERNMENT CODE SECTIONS** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **above-listed documents** was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

Eric Duane Ozimy
3455 Oak Grove Circle
Stockton, CA 95831

CERTIFIED ARTICLE NUMBER

Certified Article Number

7160 3902 9848 5452 4565


SENDER'S RECORD

Courtesy copy sent via U.S. Mail only:

Virginia K. Herold, Executive Officer
Board of Pharmacy
1625 North Market Blvd., Suite N-219
Sacramento, CA 95834

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on October 23, 2009, at Sacramento, California.

Donna H. Parker
Declarant



Signature

7160 3901 9848 5452 4565

TO:
Eric Duane Ozimy
3455 Oak Grove Circle
Stockton, CA 95831

SENDER: Geoffrey S. Allen

REFERENCE: SA2009308405

PS Form 3800, January 2005

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