

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

In the Matter of the First Amended Accusation
Against:

Case No. 3478

THOMAS R. SIMPSON
10612 Blackhawk Court
Stockton, CA 95209-4185

Pharmacist License No. RPH 26687

Respondent.

DECISION AND ORDER

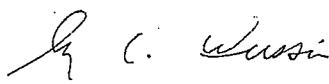
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on May 11, 2011.

It is so ORDERED on April 11, 2011.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY C. WEISSER
Board President

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

12 **In the Matter of the First Amended**
Accusation Against:

13 **THOMAS R. SIMPSON**
14 **10612 Blackhawk Court**
15 **Stockton, CA 95209-4185**

16 **Pharmacist License No. RPH 26687**

17 Respondent.

Case No. 3478

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

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

21 **PARTIES**

22 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy
23 (Board). She brought this action solely in her official capacity and is represented in this matter by
24 Kamala D. Harris, Attorney General of the State of California, by Brian S. Turner, Deputy
25 Attorney General.

26 2. Respondent Thomas R. Simpson (Respondent) is represent in these proceeding by
27 Adam Slote whose address is: 100 Pine Street, Suite 750

28 San Francisco, CA 94111-5209

1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in the First
3 Amended Accusation No. 3478.

4 9. Respondent agrees that his Pharmacist License is subject to discipline and to be
5 bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

6 CONTINGENCY

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

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

19 12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
20 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
21 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
22 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
23 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
24 writing executed by an authorized representative of each of the parties.

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

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1 **DISCIPLINARY ORDER**

2 **IT IS ORDERED** that Pharmacist License No. RPH 26687 issued to Respondent Thomas
3 R. Simpson is **revoked**. The revocation is **stayed** and Respondent is placed on probation for four
4 (4) years on the following terms and conditions.

5 1. **Obey All Laws**

6 Respondent shall obey all state and federal laws and regulations.

7 Respondent shall report any of the following occurrences to the Board, in writing, within
8 seventy-two (72) hours of such occurrence:

- 9 • an arrest or issuance of a criminal complaint for violation of any provision of the
10 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
11 substances laws
- 12 • a plea of guilty or nolo contendere in any local, state or federal criminal proceeding to
13 any criminal complaint, information or indictment
- 14 • a conviction of any crime
- 15 • discipline, citation, or other administrative action filed by any state or federal agency
16 which involves Respondent's pharmacist's license or which is related to the practice
17 of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or
18 charging for any drug, device or controlled substance.

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

20 2. **Report to the Board**

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

1 3. **Interview with the Board**

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

7 4. **Cooperate with Board Staff**

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

11 5. **Continuing Education**

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

14 6. **Notice to Employers**

15 During the period of probation, Respondent shall notify all present and prospective
16 employers of the decision and disciplinary order in case number 3478 and the terms, conditions
17 and restrictions imposed on Respondent by the decision, as follows:

18 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
19 Respondent undertaking any new employment, Respondent shall cause his direct supervisor,
20 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
21 tenure of employment) and owner to report to the Board in writing acknowledging that the listed
22 individual(s) has/have read the decision and disciplinary order in case number 3478, and terms
23 and conditions imposed thereby. It shall be Respondent's responsibility to ensure that his
24 employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

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

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1 number 3478 in advance of the Respondent commencing work at each licensed entity. A record
2 of this notification must be provided to the Board upon request.

3 Within thirty (30) days of the effective date of this decision and order, 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 s/he has read the decision and
7 disciplinary order in case number 3478 and the terms and conditions imposed thereby. It shall be
8 Respondent's 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, part-
14 time, temporary, relief or pharmacy management service as a pharmacist or any position for
15 which a pharmacist license is a requirement or criterion for employment, whether the
16 Respondent is an employee, independent contractor or volunteer.

17 **7. 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 **8. Reimbursement of Board Costs**

24 As a condition precedent to successful completion of probation, Respondent shall pay to the
25 Board compromised costs of investigation and enforcement in the amount of \$2,500.00.

26 Respondent shall make payments in a plan 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 Bankruptcy of Respondent shall not relieve Respondent of the obligation to pay the Board
5 its costs of investigation and enforcement.

6 **9. 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. The costs shall be payable to the Board on a schedule
9 directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed shall
10 be considered a violation of probation.

11 **10. 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 **11. 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 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 **12. 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. The 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 **13. 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. If
17 Respondent does not work forty hours in a month, probation shall be extended one month for
18 each month Respondent does not work forty (40) hours. Respondent must still comply with all
19 terms and conditions of probation while probation is tolled.

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

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

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1 "Cessation of practice" means any calendar month during which Respondent is not
2 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) hours as
5 a pharmacist as defined by Business and Professions Code section 4000 et seq.

6 **14. Violation of Probation**

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

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

19 **15. Completion of Probation**

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

22 **16. Pharmacists Recovery Program (PRP)**

23 Within thirty (30) days of the effective date of this decision, Respondent shall contact the
24 Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll,
25 successfully participate in, and complete the treatment contract and any subsequent addendums as
26 directed and provided by the PRP and as approved by the Board or its designee. The costs for
27 PRP participation shall be paid by and sole obligation of Respondent.

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1 If Respondent is currently enrolled in the PRP, participation is mandatory and as of the
2 effective date of this decision and disciplinary order is no longer a self-referral under Business
3 and Professions Code section 4362(c)(2). Respondent shall successfully participate in and
4 complete his current contract and any subsequent addendums with the PRP.

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

7 Probation shall be automatically extended until Respondent successfully completes the
8 PRP. Any person terminated from the PRP program shall be automatically suspended by the
9 Board. Respondent may not resume the practice of pharmacy until notified by the Board in
10 writing.

11 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
12 licensed practitioner as part of a documented medical treatment shall result in the automatic
13 suspension of Respondent to practice pharmacy and shall be considered a violation of probation.
14 Respondent shall not resume the practice of pharmacy until authorized in writing by the Board.

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

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

28 Subject to the above restrictions, Respondent may continue to own or hold an interest in

1 any licensed premises in which he holds an interest at the time this decision becomes effective
2 unless otherwise specified in this order.

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

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

7 **17. Random Drug Screening**

8 Respondent, at his own expense, shall participate in random testing, including but not
9 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
10 screening program as directed by the Board or its designee. Respondent may be required to
11 participate in testing for the entire probation period and the frequency of testing will be
12 determined by the Board or its designee. At all times, Respondent shall fully cooperate with the
13 Board or its designee, and shall, when directed, submit to such tests and samples for the detection
14 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the Board or
15 its designee may direct. Failure to timely submit to testing as directed shall be considered a
16 violation of probation.

17 Upon request of the Board or its designee, Respondent shall provide documentation from a
18 licensed practitioner that the prescription for a detected drug was legitimately issued and is a
19 necessary part of the treatment of the Respondent. Failure to timely provide such documentation
20 shall be considered a violation of probation.

21 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
22 licensed practitioner as part of a documented medical treatment shall be considered a violation of
23 probation and shall result in the automatic suspension of practice of pharmacy by Respondent.
24 Respondent may not resume the practice of pharmacy until authorized in writing by the Board.

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

1 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
2 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
3 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
4 and controlled substances. Respondent shall not resume practice until authorized in writing by
5 the Board.

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

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

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

14 **18. Abstain from Drugs and Alcohol Use**

15 Respondent shall not possess or use of alcohol, controlled substances, dangerous drugs and
16 associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner
17 as part of a documented medical treatment. Upon request of the Board or its designee,
18 Respondent shall provide documentation from the licensed practitioner that the prescription for
19 the drug was legitimately issued and is a necessary part of the treatment of the Respondent.
20 Failure to timely provide such documentation shall be considered a violation of probation.
21 Respondent shall not be in the same physical location as individuals who possess and/or are using
22 illicit substances even if Respondent is not personally ingesting the drugs. Any possession or use
23 of alcohol, controlled substances, dangerous drugs or associated paraphernalia not supported by
24 medical documentation timely provided, and/or any physical proximity to persons using illicit
25 substances, shall be considered a violation of probation.

26 **19. Prescription Coordination and Monitoring of Prescription Use**

27 Within thirty (30) days of the effective date of this decision, Respondent shall submit to the
28 Board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,

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

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

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

1 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
2 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
3 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
4 and controlled substances. Respondent shall not resume practice until notified by the Board.

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

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

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

13 **20. Supervised Practice**

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

19 Continuous – At least 75% of a work week

20 Substantial - At least 50% of a work week

21 Partial - At least 25% of a work week

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

23 Within thirty (30) days of the effective date of this decision and disciplinary order,
24 Respondent shall have his supervisor submit notification to the Board in writing stating that the
25 supervisor has read the decision and disciplinary order in case number 3478 and is familiar with
26 the required level of supervision as determined by the Board or its designee. It shall be the
27 Respondent's responsibility to ensure that his employer(s), pharmacist-in-charge and/or
28 supervisor(s) submit timely acknowledgement(s) to the Board. Failure to cause the direct

1 supervisor and the pharmacist-in-charge to submit timely acknowledgements to the Board shall
2 be considered a violation of probation.

3 If Respondent changes employment, it shall be the Respondent's responsibility to ensure
4 that his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely
5 acknowledgement(s) to the Board. Respondent shall have his new supervisor, within fifteen (15)
6 days after employment commences, submit notification to the Board in writing stating the direct
7 supervisor and pharmacist-in-charge have read the decision and disciplinary order in case number
8 3478 and is familiar with the level of supervision as determined by the Board. Respondent shall
9 not practice pharmacy and his license shall be automatically suspended until the Board or its
10 designee approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-
11 charge to submit timely acknowledgements to the Board shall be considered a violation of
12 probation.

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

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

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

27 Subject to the above restrictions, Respondent may continue to own or hold an interest in
28 any licensed premises in which he holds an interest at the time this decision becomes effective

1 unless otherwise specified in this order.

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

3 **21. No Ownership of Licensed Premises**

4 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
5 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
6 partnership, or corporation currently or hereinafter licensed by the Board. Respondent shall sell
7 or transfer any legal or beneficial interest in any entity licensed by the Board within ninety (90)
8 days following the effective date of this decision and disciplinary order and shall immediately
9 thereafter provide written proof thereof to the Board. Failure to timely divest any legal or
10 beneficial interest(s) or provide documentation thereof shall be considered a violation of
11 probation.

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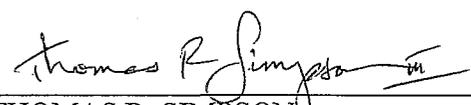
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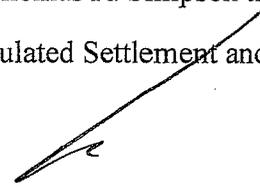
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ACCEPTANCE

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

DATED: Jan. 22, 2011 
THOMAS R. SIMPSON
Respondent

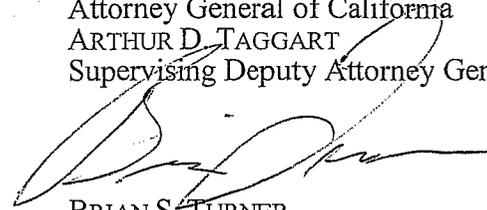
I have read and fully discussed with Respondent Thomas R. Simpson the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 1-25-11 
Adam Slote
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: 1/25/11

Respectfully Submitted,
KAMALA D. HARRIS
Attorney General of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General

BRIAN S. TURNER
Deputy Attorney General
Attorneys for Complainant

SA2009102671
Stipulation.rtf

Exhibit A

First Amended Accusation No. 3478

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8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 3478

14 **THOMAS R. SIMPSON**
15 **10612 Blackhawk Court**
16 **Stockton, CA 95209**

FIRST AMENDED ACCUSATION

Pharmacist License No. RPH 26687

Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold (Complainant) brings this First Amended 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 July 16, 1970, the Board of Pharmacy issued Pharmacist License
23 Number RPH 26687 to Thomas R. Simpson (Respondent). The Pharmacist License was in full
24 force and effect at all times relevant to the charges brought herein and will expire on October 31,
25 2011, unless renewed.

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1 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a
2 record pertaining to an arrest.”

3 9. Section 493 of the Code states:

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

13 10. Section 4301 of the Code states in pertinent part:

14 “The board shall take action against any holder of a license who is guilty of unprofessional
15 conduct.... Unprofessional conduct shall include but not be limited to...

16 (h)Use of ... alcoholic beverages to an extent or in a manner as to be dangerous or
17 injurious to oneself, or to any other person or to the public....

18 (k) The conviction of more than one misdemeanor ... involving the use, consumption or
19 self-administration of any dangerous drug or alcoholic beverage, or any combination of those
20 substances.

21 (l) The conviction of a crime substantially relate to the qualifications, functions and
22 duties of a licensee.

23 (p) Actions or conduct that would have warranted denial of a license.”

24 11. Section 4362(b) provides in pertinent part:

25 “A pharmacist or intern pharmacist who enters the pharmacists recovery program pursuant
26 to paragraph (2) of subdivision (a) shall not be subject to discipline or other enforcement action
27 by the board solely on his or her entry into the pharmacists recovery program or on information
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1 obtained from the pharmacist or intern pharmacist while participating in the program unless the
2 pharmacist or intern pharmacist would pose a threat to the health and safety of the
3 public. However, if the board receives information regarding the conduct of the pharmacist or
4 intern pharmacist, that information may serve as a basis for discipline or other enforcement by the
5 board.”

6 12. Section 4369 provides in pertinent part:

7 “Any failure to comply with the treatment contract, determination that the participant is
8 failing to derive benefit from the program, or other requirements of the pharmacists recovery
9 program may result in the termination of the pharmacist's or intern pharmacist's participation in
10 the pharmacists recovery program. The name and license number of a pharmacist or intern
11 pharmacist who is terminated from the pharmacists recovery program and the basis for
12 the termination shall be reported to the board.

13 (b) Participation in the pharmacists recovery program shall not be a defense to any
14 disciplinary action that may be taken by the board.

15 (c) No provision of this article shall preclude the board from commencing disciplinary
16 action against a licensee who is terminated from the pharmacists recovery program.”

17 13. Section 4372 provides in pertinent part:

18 “All board records and records of the pharmacists recovery program pertaining to the
19 treatment of a pharmacist or intern pharmacist in the program shall be kept confidential and are
20 not subject to discovery, subpoena, or disclosure pursuant to Chapter 3.5 (commencing with
21 Section 6250) of Division 7 of Title 1 of the Government Code. However, board records and
22 records of the pharmacists recovery program may be disclosed and testimony provided
23 in connection with participation in the pharmacists recovery program, but only to the extent those
24 records or testimony are relevant to the conduct for which the pharmacist or intern pharmacist
25 was terminated from the pharmacists recovery program.”

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1 FIRST CAUSE FOR DISCIPLINE

2 (Criminal Conviction)

3 14. Respondent's license is subject to disciplinary action under sections 480 and 4301(l)
4 in that Respondent was convicted on November 1, 2007 of violation of Vehicle Code section
5 23152(B), Driving under the influence. The circumstances are as follows:

6 15. On or about August 10, 2007 in Capitola, California, Respondent was observed at
7 approximately 1 a.m. traveling northbound on a one-way southbound street. Respondent
8 admitted to the arresting officer to consuming two glasses of champagne and several medications
9 including but not limited to Priolsec, Lofibra, Klonopin and Mysoline. Respondent further
10 admitted he was aware he was not to concurrently consume the medications and alcohol. On
11 November 1, 2007 Respondent pled no contest to driving with a blood alcohol level of .08% or
12 higher.

13 SECOND CAUSE FOR DISCIPLINE

14 (Unprofessional Conduct Denial of License)

15 16. Respondent's license is subject to disciplinary action under section 480 and 4301 (p)
16 in that Respondent's actions of multiple criminal convictions are grounds for denial of a license.
17 The circumstances are as follows:

18 17. Paragraphs 14 and 15 are incorporated herein as though set forth at length.
19 Respondent was convicted in Riverside County on or about December 16, 2002 for driving under
20 the influence of alcohol or drugs or both, a violation of Vehicle Code section 23152(A) by a plea
21 of no contest. Multiple criminal convictions are grounds to deny a license to an applicant.

22 THIRD CAUSE FOR DISCIPLINE

23 (Conduct Dangerous to Self or Others)

24 18. Respondent's license is subject to disciplinary action under section 4301(h) in that
25 Respondent consumed alcohol and medications to the point he was a danger to himself and
26 others. The circumstances are as follows:

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1 Respondent's conduct is consistent with Respondent being a public risk of harm if permitted to
2 practice pharmacy.

3 P R A Y E R

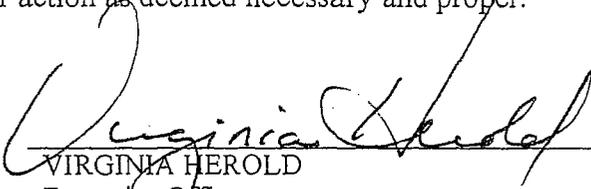
4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Board of Pharmacy issue a decision:

6 1. Revoking or suspending Pharmacist License Number RPH 26687, issued to Thomas
7 R. Simpson Thomas R. Simpson.

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

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

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13 DATED: 10/11/10



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

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