

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

In the Matter of the Accusation Against:

Case No. 3547

**MICHAEL FRANCIS WHITE**

P.O. Box 701  
Solvang, CA 93464

Pharmacist License No. RPH 28654

Respondent.

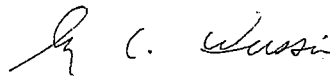
**DECISION AND ORDER**

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  
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12 **MICHAEL FRANCIS WHITE**  
13 **P.O. Box 701**  
14 **Solvang, CA 93464**  
**Pharmacist License No. RPH 28654**

OAH No. 2010100474  
**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15 Respondent.

16  
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 Kamala  
23 D. Harris, Attorney General of the State of California, by Brian S. Turner, Deputy Attorney  
24 General.

25 2. Respondent Michael Francis White (Respondent) is represented in this proceeding by  
26 attorney Gregory R. Lowe, whose address is:

27 3463 State Street, # 507

28 Santa Barbara, CA 93105

1            3. On or about October 24, 1973, the Board of Pharmacy (Board) issued Pharmacist  
2 License No. RPH 28654 to Michael Francis White (Respondent). The Pharmacist License was in  
3 full force and effect at all times relevant to the charges brought in Accusation No. 3547 and will  
4 expire on October 31, 2012, unless renewed.

5    **JURISDICTION**

6            4. Accusation No. 3547 was filed before the Board, Department of Consumer Affairs,  
7 and is currently pending against Respondent. The Accusation and all other statutorily required  
8 documents were properly served on Respondent on May 26, 2010. Respondent timely filed his  
9 Notice of Defense contesting the Accusation. A copy of Accusation No. 3547 is attached as  
10 exhibit A and incorporated herein by reference.

11    **ADVISEMENT AND WAIVERS**

12            5. Respondent has carefully read, fully discussed with counsel, and understands the  
13 charges and allegations in Accusation No. 3547. Respondent has also carefully read, fully  
14 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
15 Order.

16            6. Respondent is fully aware of his legal rights in this matter, including the right to a  
17 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at  
18 his own expense; the right to confront and cross-examine the witnesses against him; the right to  
19 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
20 the attendance of witnesses and the production of documents; the right to reconsideration and  
21 court review of an adverse decision; and all other rights accorded by the California  
22 Administrative Procedure Act and other applicable laws.

23            7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
24 every right set forth above.

25            ///

26            ///

27            ///

28            ///

1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in Accusation  
3 No. 3547.

4 9. Respondent agrees that his Pharmacist License is subject to discipline and he agrees  
5 to be bound by the Board's probationary terms 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:

28 ///

1 DISCIPLINARY ORDER

2 **IT IS HEREBY ORDERED** that Pharmacist License No. RPH 28654 issued to  
3 Respondent Michael Francis White is revoked. The revocation is stayed and Respondent is  
4 placed on probation for four (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 state or federal criminal proceeding to any  
13 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 of  
17 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging  
18 for any drug, device or controlled substance.

19 Failure to timely report such 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. Moreover, if  
27 the final probation report is not made as directed, probation shall be automatically extended until  
28 such time as the final report is made and accepted by the board.

1           3.    **Interview with the Board**

2           Upon receipt of reasonable prior notice, respondent shall appear in person for interviews  
3 with the board or its designee, at such intervals and locations as are determined by the board or its  
4 designee. Failure to appear for any scheduled interview without prior notification to board staff,  
5 or failure to appear for two (2) or more scheduled interviews with the board or its designee during  
6 the 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 in case number 3547 and the terms, conditions and restrictions imposed  
17 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 in case number 3547, and terms and conditions imposed  
23 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)  
24 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 in case number 3547 in advance  
28

1 of the respondent commencing work at each licensed entity. A record of this notification must be  
2 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 employment  
5 service, respondent shall cause his direct supervisor with the pharmacy employment service to  
6 report to the board in writing acknowledging that he has read the decision in case number 3547  
7 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure  
8 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

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

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

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

22 **8. Reimbursement of Board Costs**

23 As a condition precedent to successful completion of probation, respondent shall pay to the  
24 Board its costs of investigation and prosecution in the amount of 1,997.50. Respondent shall  
25 make said payments in the manner and time as directed by the Board or its representative.

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

1 The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to  
2 reimburse the Board its costs of investigation and prosecution.

3 **9. Probation Monitoring Costs**

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

8 **10. Status of License**

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

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

16 **11. License Surrender While on Probation/Suspension**

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

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

26 Respondent may not reapply for any license from the Board for three (3) years from the effective  
27 date of the surrender. Respondent shall meet all requirements applicable to the license sought as  
28



1 of the date the application for that license is submitted to the Board, including any outstanding  
2 costs.

3 **12. Notification of a Change in Name, Residence Address, Mailing Address or**  
4 **Employment**

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

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

12 **13. Tolling of Probation**

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

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

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

27 "Cessation of practice" means any calendar month during which respondent is  
28 not practicing as a pharmacist for at least forty (40) hours, as defined by Business and

1 Professions Code section 4000 et seq . "Resumption of practice" means any calendar  
2 month during which respondent is practicing as a pharmacist for at least forty (40)  
3 hours as a pharmacist as defined by Business and Professions Code section 4000 et  
4 seq.

5 **14. Violation of Probation**

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

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

18 **15. Completion of Probation**

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

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

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

27 If respondent is currently enrolled in the PRP, said participation is now mandatory and as of  
28 the effective date of this decision is no longer considered a self-referral under Business and

1 Professions Code section 4362(c)(2). Respondent shall successfully participate in and complete  
2 his current contract and any subsequent addendums with the PRP.

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

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

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

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

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

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

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

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

28 Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not

1 timely paid to the PRP shall constitute a violation for probation. The Board will collect unpaid  
2 administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

3 **17. Random Drug Screening**

4 Respondent, at his own expense, shall participate in random testing, including but not  
5 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug  
6 screening program as directed by the Board or its designee. Respondent may be required to  
7 participate in testing for the entire probation period and the frequency of testing will be  
8 determined by the Board or its designee. At all times, respondent shall fully cooperate with the  
9 Board or its designee, and shall, when directed, submit to such tests and samples for the detection  
10 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the Board or  
11 its designee may direct. Failure to timely submit to testing as directed shall be considered a  
12 violation of probation. Upon request of the Board or its designee, respondent shall provide  
13 documentation from a licensed practitioner that the prescription for a detected drug was  
14 legitimately issued and is a necessary part of the treatment of the respondent. Failure to timely  
15 provide such documentation shall be considered a violation of probation. Any confirmed positive  
16 test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a  
17 documented medical treatment shall be considered a violation of probation and shall result in the  
18 automatic suspension of practice of pharmacy by respondent. Respondent may not resume the  
19 practice of pharmacy until notified by the Board in writing.

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

28 During suspension, respondent shall not engage in any activity that requires the

1 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the  
2 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a  
3 designated representative for any entity licensed by the Board.

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

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

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

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

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

21 Within thirty (30) days of the effective date of this decision, respondent shall submit to the  
22 Board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,  
23 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's  
24 history with the use of controlled substances, and/or dangerous drugs and who will coordinate  
25 and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-  
26 altering drugs. The approved practitioner shall be provided with a copy of the Board's  
27 Accusation and decision. A record of this notification must be provided to the Board upon  
28 request. Respondent shall sign a release authorizing the practitioner to communicate with the

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

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

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

27 During suspension, respondent shall not engage in any activity that requires the  
28 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the

1 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a  
2 designated representative for any entity licensed by the Board.

3 Subject to the above restrictions, respondent may continue to own or hold an interest in any  
4 licensed premises in which he holds an interest at the time this decision becomes effective unless  
5 otherwise specified in this order.

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

7 **20. Supervised Practice**

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

13 Continuous – At least 75% of a work week

14 Substantial - At least 50% of a work week

15 Partial - At least 25% of a work week

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

17 Within thirty (30) days of the effective date of this decision, respondent shall have his  
18 supervisor submit notification to the Board in writing stating that the supervisor has read the  
19 decision in case number 3547 and is familiar with the required level of supervision as determined  
20 by the Board or its designee. It shall be the respondent's responsibility to ensure that his  
21 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the  
22 Board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely  
23 acknowledgements to the Board shall be considered a violation of probation.

24 If respondent changes employment, it shall be the respondent's responsibility to ensure that  
25 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to  
26 the Board. Respondent shall have his new supervisor, within fifteen (15) days after employment  
27 commences, submit notification to the Board in writing stating the direct supervisor and  
28 pharmacist-in-charge have read the decision in case number 3547 and is familiar with the level of

1 supervision as determined by the Board. Respondent shall not practice pharmacy and his license  
2 shall be automatically suspended until the Board or its designee approves a new supervisor.

3 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely  
4 acknowledgements to the Board shall be considered a violation of probation.

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

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

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

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

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

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

23 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,  
24 administrator, member, officer, director, trustee, associate, or partner of any business, firm,  
25 partnership, or corporation currently or hereinafter licensed by the Board. Respondent shall sell  
26 or transfer any legal or beneficial interest in any entity licensed by the Board within ninety (90)  
27 days following the effective date of this decision and shall immediately thereafter provide written  
28 proof thereof to the Board. Failure to timely divest any legal or beneficial interest(s) or provide



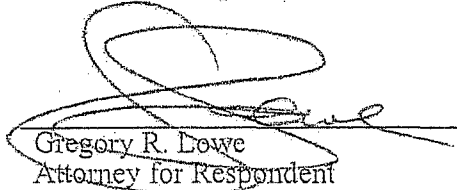
1 documentation thereof shall be considered a violation of probation.

2 ACCEPTANCE

3 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
4 discussed it with my attorney, Gregory R. Lowe. I understand the stipulation and the effect it will  
5 have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order  
6 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the  
7 Board of Pharmacy.

8  
9 DATED: 2/1/11   
10 MICHAEL FRANCIS WHITE  
Respondent

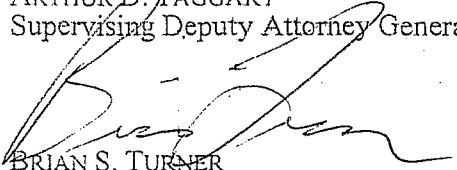
11 I have read and fully discussed with Respondent Michael Francis White the terms and  
12 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
13 I approve its form and content.

14 DATED: 2/1/11   
15 Gregory R. Lowe  
16 Attorney for Respondent

17 ENDORSEMENT

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

20 Dated: ~~January~~, 2011  
21 Feb 4

22 Respectfully submitted,  
23 KAMALA D. HARRIS  
Attorney General of California  
24 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
25   
26 BRIAN S. TURNER  
Deputy Attorney General  
27 Attorneys for Complainant  
28

**Exhibit A**

**Accusation No. 3547**

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 BRIAN S. TURNER  
Deputy Attorney General  
4 State Bar No. 108991  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 445-0603  
Facsimile: (916) 327-8643  
7 E-mail: Brian.Turner@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. 3547

12 MICHAEL FRANCIS WHITE  
13 2910 S. Assembly Road  
14 Spokane, WA 99224

ACCUSATION

15 Pharmacist License No. RPH 28654

16 Respondent.

17  
18 Complainant alleges:

19 PARTIES

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

22 2. On or about October 24, 1973, the Board of Pharmacy issued Pharmacist License  
23 Number RPH 28654 to Michael Francis White (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 2010, unless renewed.

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STATUTORY AND REGULATORY PROVISIONS

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

4. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 125.3 of the Code provides, in pertinent part, that the Board/Registrar/Director 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.

6. Section 141 of the Code states:

"(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

7. Section 4301 (n) provides in relevant part:

"The board shall take disciplinary action against any holder of a license who is guilty of unprofessional conduct...unprofessional conduct shall include, but is not limited to...

(n) The revocation, suspension, or other discipline by another state of a license to practice pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter."

///

///

1 CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct-Out of State Discipline)

3 8. Respondent is subject to disciplinary action under sections 141 and 4301(n) in that  
4 respondent was disciplined for violating the State of Washington's laws. The circumstances are  
5 as follows:

6 9. On or about May 12, 2007 respondent took a "for cause" drug test at the request of  
7 his employer, Sacred Heart Medical Center, Spokane, Washington. Respondent admitted to  
8 taking vicodin belonging to his wife. Respondent signed a contract on June 12, 2007 requiring  
9 his enrollment in drug rehabilitation and five (5) years probation. On July 3, 2007 respondent  
10 admitted under oath that he took Norco belonging to his wife. Respondent is in violation of  
11 section 4301 (n) because the out of state discipline described herein is unprofessional conduct  
12 within the meaning of section 4301.

13 PRAYER

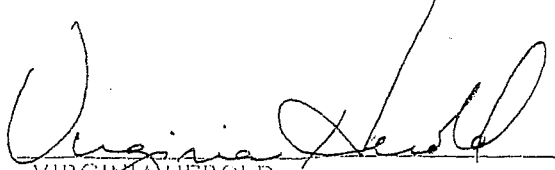
14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
15 and that following the hearing, the Board of Pharmacy issue a decision:

16 1. Revoking or suspending Pharmacist License Number RPH 28654, issued to Michael  
17 Francis White.

18 2. Ordering Michael Francis White to pay the Board of Pharmacy the reasonable costs  
19 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
20 section 125.3;

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

22  
23  
24 DATED: 2/3/10

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

25  
26  
27  
28 SA2009103096