

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

In the Matter of the Statement of Issues Against:

Case No. 3718

THOMAS PAUL SLEVIN

310 Carolyn Street
Auburn, CA 95603

Applicant

Respondent.

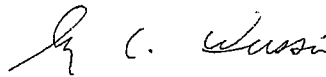
DECISION AND ORDER

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

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 LESLIE A. BURGERMYER
Deputy Attorney General
4 State Bar No. 117576
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5337
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Statement of Issues Against:

Case No. 3718

12 **THOMAS PAUL SLEVIN**
310 Carolyn Street
13 Auburn, CA 95603

OAH No. 2010100525

14 Applicant for Pharmacy Technician

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Respondent.

16
17 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy
21 ("Board"), Department of Consumer Affairs. She brought this action solely in her official
22 capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of
23 California, by Leslie A. Burgermyer, Deputy Attorney General.

24 2. Respondent Thomas Paul Slevin ("Respondent") is represented in this proceeding by
25 attorney Mark T. Gallagher, Esq., whose address is: Mark T. Gallagher, Esq., Cable Gallagher
26 Law Firm, 101 Parkshore Drive, Suite 100, Folsom, CA 95630

27 3. On or about May 6, 2009, Respondent filed an application dated April 29, 2009, with
28 the Board to obtain a Pharmacy Technician license.

1 JURISDICTION

2 4. Statement of Issues No. 3718 was filed before the Board and is currently pending
3 against Respondent. The Statement of Issues and all other statutorily required documents were
4 properly served on Respondent on October 4, 2010. Respondent timely filed his Notice of
5 Defense contesting the Statement of Issues. A true and correct copy of Statement of Issues No.
6 3718 is attached hereto, marked Exhibit A, and incorporated herein by reference.

7 ADVISEMENT AND WAIVERS

8 5. Respondent has carefully read, fully discussed with counsel, and understands the
9 charges and allegations in the Statement of Issues No. 3718. Respondent has also carefully read,
10 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
11 Disciplinary Order.

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

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

21 CULPABILITY

22 8. Respondent admits the truth of each and every charge and allegation in the Statement
23 of Issues No. 3718.

24 9. Respondent agrees that his pharmacy technician license is subject to denial and he
25 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order
26 below.

27 ///

28 ///

1 RESERVATION

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

6 CONTINGENCY

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

16 12. 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 13. 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 14. 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 upon satisfaction of all statutory and regulatory
3 requirements for issuance of a license, a Pharmacy Technician license shall be issued to Thomas
4 Paul Slevin ("Respondent") and immediately revoked. The order of revocation is stayed and
5 Respondent is placed on probation for four (4) years probation upon the following terms and
6 conditions:

7 **1. Certification Prior to Resuming Work**

8 Respondent shall be automatically suspended from working as a Pharmacy Technician until
9 he is certified as defined by Business and Professions Code section 4202, subdivision (a)(4), and
10 provides satisfactory proof of certification to the Board of Pharmacy ("Board"). Failure to
11 achieve certification within one (1) year shall be considered a violation of probation. Respondent
12 shall not resume working as a Pharmacy Technician until notified by the Board.

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

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

24 **2. Obey All Laws**

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

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

- 28 a. An arrest or issuance of a criminal complaint for violation of any provision of

1 the Pharmacy Law, state and federal food and drug laws, or state and federal controlled
2 substances laws;

3 b. A plea of guilty or nolo contendere in any state or federal criminal proceeding
4 to any criminal complaint, information, or indictment;

5 c. A conviction of any crime; and/or

6 d. Discipline, citation, or other administrative action filed by any state or federal
7 agency which involves Respondent's Pharmacy Technician license or which is related to the
8 practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
9 for any drug, device or controlled substance.

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

11 **3. Report to the Board**

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

20 **4. Interview with the Board**

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

26 **5. Cooperate with Board Staff**

27 Respondent shall cooperate with the Board's inspection program and with the Board's
28 monitoring and investigation of Respondent's compliance with the terms and conditions of his

1 probation. Failure to cooperate shall be considered a violation of probation.

2 **6. Notice to Employers**

3 During the period of probation, Respondent shall notify all present and prospective
4 employers of the Decision in Case No. 3718 and the terms, conditions, and restrictions imposed
5 on Respondent by the Decision, as follows:

6 Within thirty (30) days of the effective date of this Decision and within fifteen (15) days of
7 Respondent undertaking any new employment, Respondent shall cause his direct supervisor,
8 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
9 tenure of employment) and owner to report to the Board in writing acknowledging that the listed
10 individual(s) has/have read the Decision in Case No. 3718 and the terms and conditions imposed
11 thereby. It shall be Respondent's responsibility to ensure that his employer(s) and/or
12 supervisor(s) submit timely acknowledgement(s) to the Board.

13 If Respondent works for or is employed by or through a pharmacy employment service,
14 Respondent must notify his direct supervisor, pharmacist-in-charge and owner at every pharmacy
15 of the terms and conditions of the Decision in Case No. 3718 in advance of the Respondent
16 commencing work at each pharmacy. A record of this notification must be provided to the Board
17 upon request.

18 Furthermore, within thirty (30) days of the effective date of this Decision and within fifteen
19 (15) days of Respondent undertaking any new employment by or through a pharmacy
20 employment service, Respondent shall cause his direct supervisor with the pharmacy employment
21 service to report to the Board in writing acknowledging that he has read the Decision in Case No.
22 3718 and the terms and conditions imposed thereby. It shall be Respondent's responsibility to
23 ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

24 Failure to timely notify present or prospective employer(s) or to cause that or those
25 employer(s) to submit timely acknowledgements to the Board shall be considered a violation of
26 probation.

27 "Employment" within the meaning of this provision shall include any full-time, part-
28 time, temporary or relief service, or pharmacy management service as a Pharmacy

1 Technician or in any position for which a Pharmacy Technician license is a requirement or
2 criterion for employment whether the Respondent is considered an employee, independent
3 contractor, or volunteer.

4 **7. Probation Monitoring Costs**

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

9 **8. Status of License**

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

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

17 **9. License Surrender While on Probation/Suspension**

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

26 Upon acceptance of the surrender, Respondent shall relinquish his Pharmacy Technician
27 license to the Board within ten (10) days of notification by the Board that the surrender is
28 accepted. Respondent may not re-apply for any license, permit, or registration from the Board for

1 three (3) years from the effective date of the surrender. Respondent shall meet all requirements
2 applicable to the license sought as of the date the application for that license is submitted to the
3 Board.

4 **10. Notification of a Change in Name, Residence Address, Mailing Address or**
5 **Employment**

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

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

13 **11. Tolling of Probation**

14 Except during periods of suspension, Respondent shall, at all times while on probation, be
15 employed as a Pharmacy Technician in California for a minimum of twenty (20) hours per
16 calendar month. Any month during which this minimum is not met shall toll the period of
17 probation, i.e., the period of probation shall be extended by one (1) month for each month during
18 which this minimum is not met. During any such period of tolling of probation, Respondent must
19 nonetheless comply with all terms and conditions of probation.

20 Should Respondent, regardless of residency, for any reason (including vacation) cease
21 working as a Pharmacy Technician for a minimum of twenty (20) hours per calendar month in
22 California, Respondent must notify the Board in writing within ten (10) days of cessation of work
23 and must further notify the Board in writing within ten (10) days of the resumption of the work.
24 Any failure to 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.

28 "Cessation of work" means calendar month during which Respondent is not working

1 for at least twenty (20) hours as a Pharmacy Technician, as defined in Business and
2 Professions Code section 4115. "Resumption of work" means any calendar month during
3 which Respondent is working as a Pharmacy Technician for at least twenty (20) hours as a
4 Pharmacy Technician as defined by Business and Professions Code section 4115.

5 **12. 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,
8 until 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 **13. Completion of Probation**

19 Upon written notice by the Board indicating successful completion of probation,
20 Respondent's Pharmacy Technician license will be fully restored.

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

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

1 **15. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

2 Within thirty (30) days of the effective date of this Decision, Respondent shall begin
3 regular attendance at a recognized and established substance abuse recovery support group in
4 California, (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved
5 by the Board or its designee. Respondent must attend at least one group meeting per week unless
6 otherwise directed by the Board or its designee. Respondent shall continue regular attendance
7 and submit signed and dated documentation confirming attendance with each quarterly report for
8 the duration of probation. Failure to attend or submit documentation thereof shall be considered a
9 violation of probation.

10 **16. Random Drug Screening**

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

27 During suspension, Respondent shall not enter any pharmacy area or any portion of or any
28

1 other Board licensed premises (wholesaler, veterinary food-animal drug retailer or any other
2 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
3 devices or controlled substances are maintained. Respondent shall not do any act involving drug
4 selection, selection of stock, manufacturing, compounding or dispensing. Nor shall Respondent
5 manage, administer, or assist any licensee of the Board. Respondent shall not have access to or
6 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
7 substances. Respondent shall not resume work until notified by the Board.

8 Respondent shall not direct, control or perform any aspect of the practice of pharmacy.
9 Subject to the above restrictions, Respondent may continue to own or hold an interest in any
10 licensed premises in which he holds an interest at the time the Decision becomes effective unless
11 otherwise specified in this order.

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

13 **17. Work Site Monitor**

14 Within ten (10) days of the effective date of this Decision, Respondent shall identify a work
15 site monitor, for prior approval by the Board, who shall be responsible for supervising
16 Respondent during working hours. Respondent shall be responsible for ensuring that the work
17 site monitor reports in writing to the Board quarterly. Should the designated work site monitor
18 determine at any time during the probationary period that Respondent has not maintained
19 sobriety, he shall notify the Board immediately, either orally or in writing as directed. Should
20 Respondent change employment, a new work site monitor must be designated, for prior approval
21 by the Board, within ten (10) days of commencing new employment. Failure to identify an
22 acceptable initial or replacement work site monitor, or to ensure quarterly reports are submitted to
23 the Board, shall be considered a violation of probation.

24 **18. Notification of Departure**

25 Prior to leaving the probationary geographic area designated by the Board or its designee
26 for a period greater than twenty-four (24) hours, Respondent shall notify the Board verbally and
27 in writing of the dates of departure and return. Failure to comply with this provision shall be
28 considered a violation of probation.

1 **19. 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 **20. Prescription Coordination and Monitoring of Prescription Use**

14 Within thirty (30) days of the effective date of this Decision, Respondent shall submit to the
15 Board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
16 physician assistant, or psychiatrist of Respondent's choice, who shall be aware of the Decision,
17 Respondent's history with the use of alcohol, controlled substances, and/or dangerous drugs, and
18 who will coordinate and monitor any prescriptions for Respondent for dangerous drugs,
19 controlled substances, or mood-altering drugs. The approved practitioner shall be provided with a
20 copy of the Board's Decision in Case No. 3718. (See a copy of the Statement of Issues is
21 attached hereto.) A record of this notification must be provided to the Board upon request.
22 Respondent shall sign a release authorizing the practitioner to communicate with the Board about
23 Respondent's treatment(s). The coordinating physician, nurse practitioner, physician assistant, or
24 psychiatrist shall report to the Board on a quarterly basis for the duration of probation regarding
25 Respondent's compliance with this condition. If any substances considered addictive have been
26 prescribed, the report shall identify a program for the time limited use of any such substances.
27 The Board may require that the single coordinating physician, nurse practitioner, physician
28 assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive

1 medicine. Should Respondent, for any reason, cease supervision by the approved practitioner,
2 Respondent shall notify the Board immediately and, within thirty (30) days of ceasing treatment,
3 submit the name of a replacement physician designee for its prior approval. Failure to timely
4 submit the selected practitioner or replacement practitioner to the Board for approval, or to ensure
5 the required reporting thereby on the quarterly reports, shall be considered a violation of
6 probation.

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

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 as a Pharmacy Technician
16 nor do any act involving drug selection, selection of stock, manufacturing, compounding,
17 dispensing, or patient consultation. Nor shall Respondent manage, administer, or be a consultant
18 to any licensee of the Board, or have access to or control the ordering, manufacturing, or
19 dispensing of dangerous drugs and controlled substances. Respondent shall not resume practice
20 until notified by the Board.


21 During suspension, Respondent shall not engage in any activity that requires the
22 professional judgment of a Pharmacy Technician. Respondent shall not direct or control any
23 aspect of the practice of Pharmacy Technician. Respondent shall not perform the duties of a
24 Pharmacy Technician or a 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 or she holds an interest at the time this Decision becomes
27 effective unless otherwise specified in this order.


28

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Mark T. Gallagher, Esq. I understand the stipulation and the effect it will have on my Pharmacy Technician 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: 23 Feb. 2011 
THOMAS PAUL SLEVIN
Respondent

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

DATED: 2-24-2011 
MARK T. GALLAGHER, ESQ.
Attorney for Respondent

17 ///
18 ///
19 ///
20 ///
21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

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: 2-28-11

Respectfully submitted,

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



LESLIE A. BURGERMYER
Deputy Attorney General
Attorneys for Complainant

SA2010101271 / 10656670.doc

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Exhibit A

Statement of Issues No. 3718

1 EDMUND G. BROWN JR.
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 LESLIE A. BURGERMYER
Deputy Attorney General
4 State Bar No. 117576
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5337
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Statement of Issues
12 Against:

Case No. 3718

13 **THOMAS PAUL SLEVIN**
14 310 Carolyn Street
Auburn, CA 95603

STATEMENT OF ISSUES

15 Applicant for Pharmacy Technician

16 Respondent.

17
18
19 Complainant alleges:

20 **PARTIES**

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

24 **Application for Registration as a Pharmacy Technician**

25 2. On or about May 6, 2009, the Board received an Application for Registration as a
26 Pharmacy Technician from Thomas Paul Slevin (Respondent). On or about April 29, 2009,
27 Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and
28 representations in the application. The Board denied the application on April 13, 2010.

STATUTORY PROVISIONS

3. Section 4300 of the Business and Professions Code (Code) states, in pertinent part:

(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy, including, but not limited to, the following:

- (1) Medical or psychiatric evaluation.
- (2) Continuing medical or psychiatric treatment.
- (3) Restriction of type or circumstances of practice.
- (4) Continuing participation in a board-approved rehabilitation program.
- (5) Abstention from the use of alcohol or drugs.
- (6) Random fluid testing for alcohol or drugs.
- (7) Compliance with laws and regulations governing the practice of pharmacy.

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

(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

4. California Code of Regulations (CCR), title 16, section 1770, states:

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

5. Code section 4301 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:

///

///

1
2 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
3 deceit, or corruption, whether the act is committed in the course of relations as a
4 licensee or otherwise, and whether the act is a felony or misdemeanor or not.

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

10 (j) The violation of any of the statutes of this state, or any other state, or of the
11 United States regulating controlled substances and dangerous drugs.

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

15 (l) The conviction of a crime substantially related to the qualifications,
16 functions, and duties of a licensee under this chapter. The record of conviction of a
17 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
18 States Code regulating controlled substances or of a violation of the statutes of this
19 state regulating controlled substances or dangerous drugs shall be conclusive
20 evidence of unprofessional conduct. In all other cases, the record of conviction shall
21 be conclusive evidence only of the fact that the conviction occurred. The board may
22 inquire into the circumstances surrounding the commission of the crime, in order to
23 fix the degree of discipline or, in the case of a conviction not involving controlled
24 substances or dangerous drugs, to determine if the conviction is of an offense
25 substantially related to the qualifications, functions, and duties of a licensee under this
26 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
27 contendere is deemed to be a conviction within the meaning of this provision. The
28 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.

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

5. Section 480 of the Code states:

(a) A board may deny a license regulated by this code on the grounds that the
applicant has one of the following:

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

(3)(A) Done any act that if done by a licentiate of the business or profession in
question, would be grounds for suspension or revocation of license.

1 (B) The board may deny a license pursuant to this subdivision only if the
2 crime or act is substantially related to the qualifications, functions, or duties of the
3 business or profession for which application is made.

4 (b) Notwithstanding any other provision of this code, no person shall be
5 denied a license solely on the basis that he or she has been convicted of a felony if he
6 or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing
7 with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been
8 convicted of a misdemeanor if he or she has met all applicable requirements of the
9 criteria of rehabilitation developed by the board to evaluate the rehabilitation of a
10 person when considering the denial of a license under subdivision (a) of Section 482.

11 FIRST CAUSE FOR DENIAL OF APPLICATION

12 (Criminal Convictions)

13 6. Respondent's application is subject to denial pursuant to Code section 4301,
14 subdivisions (k) and (l), in conjunction with Code section 480, subdivision (a)(1), in that
15 Respondent has been convicted of the following crimes that are substantially related to the
16 qualifications, functions, and duties of a registered pharmacy technician:

17 a. On June 17, 1993, in the Justice Court, County of Lyon, Nevada, in the matter
18 entitled *The State of Nevada, County of Lyon vs. Thomas Paul Slevin* (1993), Case No. 92-00501,
19 Respondent was convicted by the court following his plea of nolo contendere to a violation of
20 NRS-200.481 [battery], a misdemeanor.

21 b. On May 25, 1994, in the Justice Court, County of Carson, Nevada, in Case No.
22 013011J, Respondent was convicted by the court of driving under the influence of alcohol on
23 May 9, 1994.

24 c. On October 30, 1997, in the Superior Court, County of Placer, California, in the
25 matter titled *People vs. Thomas Paul Slevin* (1997), Case No. A41879, Respondent was convicted
26 by the court of a violation of Vehicle Code section 23152, subdivision (a) [driving under the
27 influence of alcohol], a misdemeanor.

28 d. In or about 1999, in the District Court of the 4th Judicial District of Idaho, County of
Ada, pursuant to Misdemeanor Citation No. 661863, Respondent was convicted by the court
following his plea of no contest to a violation of Code section 37-2734A [possession of drug
paraphernalia] a misdemeanor.

1 e. On April 27, 1999, in the Superior Court, County of Placer, California, in the matter
2 titled *People vs. Thomas Paul Slevin* (1998), Case No. 62-3161, Respondent was convicted by the
3 court following his plea of nolo contendere to violating Vehicle Code section 23152, subdivision
4 (a) [driving under the influence of alcohol on June 7, 1998], with priors, a felony; his BAC
5 measured .13%.

6 f. On April 27, 1999, in the Superior Court, County of Placer, California, in the matter
7 titled *People vs. Thomas Paul Slevin* (1998), Case No. 62-2622, Respondent was convicted by the
8 court following his plea of nolo contendere to violating Vehicle Code section 23152, subdivision
9 (a) [driving under the influence of alcohol on May 20, 1998], a misdemeanor; his BAC measured
10 .10%.

11 g. On April 10, 2001, in the Superior Court, County of Placer, California, in the matter
12 titled *People vs. Thomas Paul Slevin* (2001), Case No. 62-19885, Respondent was convicted by
13 the court following his plea of guilty to a violation of Vehicle Code section 23152, subdivision (a)
14 [driving under the influence of alcohol on February 17, 2001], with priors, a felony; his BAC
15 measured .19%,.

16 h. On September 19, 2005, in the Superior Court, County of Placer, California, in the
17 matter titled *People vs. Thomas Paul Slevin* (2005), Case No. 62-052506, Respondent was
18 convicted by the court of a violation of Vehicle Code section 23152, subdivision (a) [driving
19 under the influence of alcohol or drugs], a felony.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Acts Which if Done by A Licentiate Would Constitute Suspension**
22 **or Revocation of a License)**

23 7. Respondent's application is subject to denial pursuant to Code section 480,
24 subdivision (a)(3)(A), in that Respondent has committed acts which if done by a licentiate of the
25 profession would constitute cause for suspension or revocation of a license pursuant to Code
26 sections 4301, subsections (f), (h), (j), (k), (l), and (p).

27 ///

28 ///

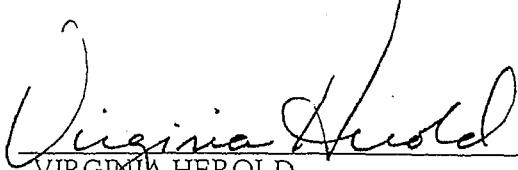
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRAYER

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

1. Denying the application of Thomas Paul Slevin for a pharmacy technician registration; and,
2. Taking such other and further action as deemed necessary and proper.

DATED: 9/23/10



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

SA2010101271 / 10609328

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

Case Name: In the Matter of the Statement of Issues Against:
THOMAS PAUL SLEVIN

Board of Pharmacy Case No. 3718

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 4, 2010, I served the attached **STATEMENT TO RESPONDENT; STATEMENT OF ISSUES; REQUEST FOR DISCOVERY; RESPONDENT/APPLICANT'S NOTICE OF DESIGNATION OF COUNSEL (2 COPIES); RESPONDENT/APPLICANT'S NOTICE OF WITHDRAWAL OF REQUEST FOR HEARING (2 COPIES); and COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7** 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 **STATEMENT TO RESPONDENT; STATEMENT OF ISSUES; REQUEST FOR DISCOVERY; RESPONDENT/APPLICANT'S NOTICE OF DESIGNATION OF COUNSEL (2 COPIES); RESPONDENT/APPLICANT'S NOTICE OF WITHDRAWAL OF REQUEST FOR HEARING (2 COPIES); and COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7** 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:

Thomas Paul Slevin
310 Carolyn Street
Auburn, CA 95603

Certified Article Number

7106 4575 1294 2386 3210

SENDERS RECORD

Susan Cappello
Enforcement Manager
Board of Pharmacy
1625 North Market Blvd., suite N-219
Sacramento, CA 95834
Courtesy Copy Sent Via First Class Mail Only

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 4, 2010, at Sacramento, California.

L. J. Talani
Declarant

L. J. Talani
Signature

SA2010101271
10620641.doc