

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

In the Matter of the Statement of Issues Against:

Case No. 4092

JENNIFER SCHALOY STEELE
1530 Lake Boulevard, #F
Redding, CA 96003
Applicant for Pharmacy Technician License

Respondent.

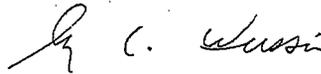
DECISION AND ORDER

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 July 30, 2012.

It is so ORDERED on June 29, 2012.

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 PATRICK M. KENADY
Deputy Attorney General
4 State Bar No. 050882
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5377
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

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

13 **JENNIFER SCHALOY STEELE**
14 1530 Lake Boulevard, #F
Redding, CA 96003

15 Pharmacy Technician License

16 Respondent.

Case No. 4092

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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 She brought this action solely in her official capacity and is represented in this matter by Kamala
22 D. Harris, Attorney General of the State of California, by Patrick M. Kenady, Deputy Attorney
23 General.

24 2. Respondent Jennifer Schaloy Steele (Respondent) is representing herself in this
25 proceeding and has chosen not to exercise her right to be represented by counsel.

26 3. On or about January 7, 2010, Respondent filed an application dated December 6,
27 2010, with the Board of Pharmacy to obtain a Pharmacy Technician License.

28 ///

1 licensing agency is involved, and shall not be admissible in any other criminal or civil
2 proceeding.

3 CONTINGENCY

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

13 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
14 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
15 effect as the originals.

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

22 14. In consideration of the foregoing admissions and stipulations, the parties agree that
23 the Board may, without further notice or formal proceeding, issue and enter the following
24 Disciplinary Order:

25 DISCIPLINARY ORDER

26 IT IS HEREBY ORDERED that upon satisfaction of all statutory and regulatory
27 requirements for issuance of a license, a license shall be issued to Respondent and immediately
28

1 revoked; the order of revocation shall be stayed and Respondent is placed on probation for three
2 (3) years upon the following terms and conditions probation.

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

4 Respondent shall be automatically suspended from working as a pharmacy technician until
5 she is certified as defined by Business and Professions Code section 4202(a)(4) and provides
6 satisfactory proof of certification to the board. Respondent shall not resume working as a
7 pharmacy technician until notified by the board. Failure to achieve certification within one (1)
8 year shall be considered a violation of probation. Respondent shall not resume working as a
9 pharmacy technician until notified by the board.

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

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

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

22 **2. Obey All Laws**

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

24 Respondent shall report any of the following occurrences to the board, in writing, within
25 seventy-two (72) hours of such occurrence:

- 26 an arrest or issuance of a criminal complaint for violation of any provision of the
27 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
28 substances laws

- 1 a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
2 criminal complaint, information or indictment
- 3 a conviction of any crime
- 4 discipline, citation, or other administrative action filed by any state or federal agency
5 which involves Respondent's Pharmacy Technician license or which is related to the
6 practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing,
7 or charging for any drug, device or controlled substance.

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

9 **3. Report to the Board**

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

18 **4. Interview with the Board**

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

24 **5. Cooperate with Board Staff**

25 Respondent shall cooperate with the board's inspection program and with the board's
26 monitoring and investigation of Respondent's compliance with the terms and conditions of her
27 probation. Failure to cooperate shall be considered a violation of probation.

28 ///

1 **6. Notice to Employers**

2 During the period of probation, Respondent shall notify all present and prospective
3 employers of the decision in case number 4092 and the terms, conditions and restrictions imposed
4 on Respondent by the decision, as follows:

5 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
6 Respondent undertaking any new employment, Respondent shall cause her direct supervisor,
7 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
8 tenure of employment) and owner to report to the board in writing acknowledging that the listed
9 individual(s) has/have read the decision in case number 4092 and the terms and conditions
10 imposed thereby. It shall be Respondent's responsibility to ensure that her employer(s) and/or
11 supervisor(s) submit timely acknowledgement(s) to the board.

12 If Respondent works for or is employed by or through a pharmacy employment service,
13 Respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy
14 of the terms and conditions of the decision in case number 4092 in advance of the Respondent
15 commencing work at each pharmacy. A record of this notification must be provided to the board
16 upon request.

17 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
18 (15) days of Respondent undertaking any new employment by or through a pharmacy
19 employment service, Respondent shall cause her direct supervisor with the pharmacy
20 employment service to report to the board in writing acknowledging that she has read the decision
21 in case number 4092 and the terms and conditions imposed thereby. It shall be Respondent's
22 responsibility to ensure that her employer(s) and/or supervisor(s) submit timely
23 acknowledgment(s) to the board.

24 Failure to timely notify present or prospective employer(s) or to cause that/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,
28 part-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
2 or criterion for employment, whether the Respondent is considered an employee,
3 independent 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 as
7 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
8 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 reapplication 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 her pharmacy technician license to the board for surrender. The board or
21 its designee shall have the discretion whether to grant the request for surrender or take any other
22 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 her 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 reapply 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 ten(10) hours per calendar
16 month. Any month during which this minimum is not met shall toll the period of probation, i.e.,
17 the period of probation shall be extended by one month for each month during which this
18 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 ten (10) 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

1 working for at least ten(10) hours as a pharmacy technician, as defined in Business
2 and Professions Code section 4115. "Resumption of work" means any calendar
3 month during which Respondent is working as a pharmacy technician for at least
4 ten(10) hours as a pharmacy technician as defined by Business and Professions Code
5 section 4115.

6 **12. Violation of Probation**

7 If a Respondent has not complied with any term or condition of probation, the board shall
8 have continuing jurisdiction over Respondent, and probation shall automatically be extended,
9 until all terms and conditions have been satisfied or the board has taken other action as deemed
10 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
11 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 that
14 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
15 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
16 a petition to revoke probation or an 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 accusation is heard and decided.

19 **13. Completion of Probation**

20 Upon written notice by the board indicating successful completion of probation,
21 Respondent's pharmacy technician license will be fully restored.

22 **14. 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 **15. Random Drug Screening**

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

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

27 Respondent shall not direct, control or perform any aspect of the practice of pharmacy.
28 Subject to the above restrictions, Respondent may continue to own or hold an interest in any

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

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

4 **16. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

5 Upon the first confirmed positive screen, Respondent shall begin regular attendance at a
6 recognized and established substance abuse recovery support group in California (e.g., Alcoholics
7 Anonymous, Narcotics Anonymous, etc.), which has been approved by the board or its designee.
8 Respondent must attend at least one group meeting per week unless otherwise directed by the
9 board or its designee. Respondent shall continue regular quarterly reports for the duration of
10 probation. Failure to attend or submit documentation thereof shall be considered a violation of
11 probation.

12 **17. Work Site Monitor**

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

23 **18. Notification of Departure**

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

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

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: 2/24/12

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



PATRICK M. KENADY
Deputy Attorney General
Attorneys for Complainant

SA2011101602
10796412.doc

Exhibit A

Statement of Issues No. 4092

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 PATRICK M. KENADY
Deputy Attorney General
4 State Bar No. 050882
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5377
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

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

Case No. 4092

13 **JENNIFER SCHALOY STEELE**

STATEMENT OF ISSUES

14 **1530 Lake Boulevard, #F**
Redding, CA 96003

15 **Pharmacy Technician License**

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, Department of Consumer Affairs.

23 2. On or about January 7, 2010, the Board of Pharmacy, Department of Consumer
24 Affairs received an application for a Pharmacy Technician License from Jennifer Schaloy Steele
25 (Respondent). On or about December 6, 2009, Jennifer Schaloy Steele certified under penalty of
26 perjury to the truthfulness of all statements, answers, and representations in the application. The
27 Board denied the application on April 29, 2011.

28 ///

JURISDICTION

1
2 3. This Statement of Issues is brought before the Board of Pharmacy (Board),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 4300 of the Code states:

6 "(a) Every license issued may be suspended or revoked.

7 ***

8 "(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The
9 board may, in its sole discretion, issue a probationary license to any applicant for a license who is
10 guilty of unprofessional conduct and who has met all other requirements for licensure.

11 ***

12 5. Section 4301 of the Code states:

13 "The board shall take action against any holder of a license who is guilty of unprofessional
14 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

15 Unprofessional conduct shall include, but is not limited to, any of the following:

16 ***

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

22 ***

23 "(l) The conviction of a crime substantially related to the qualifications, functions, and
24 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
25 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
26 substances or of a violation of the statutes of this state regulating controlled substances or
27 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
28 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

1 The board may inquire into the circumstances surrounding the commission of the crime, in order
2 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
3 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
4 qualifications, functions, and duties of a licensee under this chapter.

5 6. Section 480 of the Code states:

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

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

14 "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially
15 benefit himself or herself or another, or substantially injure another.

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

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

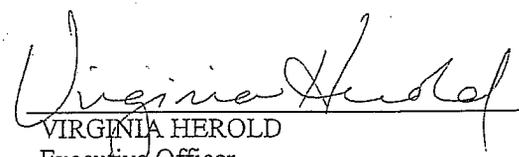
21 "(b) Notwithstanding any other provision of this code, no person shall be denied a license
22 solely on the basis that he or she has been convicted of a felony if he or she has obtained a
23 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of
24 Part 3 of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

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

2. Taking such other and further action as deemed necessary and proper.

DATED: 11/18/11



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

SA2011101602
10751528.doc