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

In the Matter of the Accusation Aga	ainst:
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Case No. 4213

AMERICA DEVERA

3716 Seneca Avenue Los Angeles, CA 90039

Pharmacy Technician Registration No. TCH 56043

Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and 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 April 8, 2013.

It is so ORDERED on March 7, 2013.

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	MARC D. GREENBAUM		
3	Supervising Deputy Attorney General MORGAN MALEK		
4	Deputy Attorney General State Bar No. 223382		
5	300 So. Spring Street, Suite 1702		
ļ	Los Angeles, CA 90013 Telephone: (213) 897-2643 Facsimile: (213) 897-2804		
6	Facsimile: (213) 897-2804 Attorneys for Complainant		
7		RE THE	
8	BOARD OF PHARMACY		
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
10			
11	In the Matter of the Accusation Against:	Case No. 4213	
12	AMERICA Q. DEVERA 3716 Seneca Avenue		
13	Los Angeles, CA 90039	STIPULATED SURRENDER OF	
	Pharmacy Technician Registration No. TCH 56043	LICENSE AND ORDER	
14	Respondent.		
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	IT IS HEREBY STIPULATED AND AGREED by and between the parties in this		
22	proceeding that the following matters are true:		
23	PAR	TIES	
24	PARTIES 1. Virginia Harold (Complainant) is the Everytive Officer of the Pound of Pharmacus.		
25	1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.		
26	She brought this action solely in her official capacity and is represented in this matter by Kamala		
27	D. Harris, Attorney General of the State of California, by Morgan Malek, Deputy Attorney		
28	General.		

2. America Q. Devera (Respondent) is represented in this proceeding by attorney Herbert L. Weinberg, whose address is Herbert L. Weinberg, Esq.

McGuire Woods LLP

1800 Century Park East, 8th Fl.

LA, CA 90067.

3. On or about April 16, 2004, the Board of Pharmacy issued Pharmacy Technician Registration No. TCH 56043 to America Q. Devera (Respondent). The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4213 and will expire on September 30, 2013, unless renewed.

JURISDICTION

4. Accusation No. 4213 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on June 29, 2012.

Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 4213 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

- 5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 4213. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.
- 6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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

CULPABILITY

- 8. Respondent admits the truth of each and every charge and allegation in Accusation No. 4213, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician Registration No. TCH 56043 for the Board's formal acceptance.
- 9. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Pharmacy Technician Registration without further process.

CONTINGENCY

- 10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.
- 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.
- 12. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

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

ORDER

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 56043, issued to Respondent America Q. Devera, is surrendered and accepted by the Board of Pharmacy.

- 1. The surrender of Respondent's Pharmacy Technician Registration and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board of Pharmacy.
- 2. Respondent shall lose all rights and privileges as a pharmacy technician in California as of the effective date of the Board's Decision and Order.
- 3. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.
- 4. Respondent understands and agrees that if she ever files an application for licensure or a petition for reinstatement in the State of California, the board shall treat it as a new application for licensure. Respondent may not apply for any license, permit, or registration from the board for three (3) years from the effective date of this decision.
- 5. Respondent stipulates that should she apply for any license from the board on or after the effective date of this decision, all allegations set forth in the Accusation No. 4213 shall be deemed to be true, correct and admitted by respondent when the board determines whether to grant or deny the application. Respondent shall satisfy all requirements applicable to that license as of the date the application is submitted to the board, including, but not limited to certification by a nationally recognized body prior to the issuance of a new license. Respondent is required to report this surrender as disciplinary action.
- 6. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$5,000.00 prior to issuance of a new or reinstated license.

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Herbert L. Weinberg. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: //3//3

AMERICA Q, DEVERA Respondent

I have read and fully discussed with Respondent America Q. Devera the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 1/31/2013

HERBERT L. WEINBERG Attorney for Respondent

ENDORSEMENT

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

Respectfully submitted,

KAMALA D. HARRIS Attorney General of California MARC D. GREENBAUM Supervising Deputy Attorney General

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MORGAN MALEK Deputy Attorney General Attorneys for Complainant

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Exhibit A

Accusation No. 4213

.			
1	KAMALA D. HARRIS Attorney General of California		
2	MARC Ď. GREENBAUM Supervising Deputy Attorney General		
3	Morgan Malek		
4	Deputy Attorney General State Bar No. 223382		
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013		
6	Telephone: (213) 897-2643 Facsimile: (213) 897-2804		
	Attorneys for Complainant		
7	BEFORE THE		
8	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
9	STATE OF CALIFORNIA		
10			
11	In the Matter of the Accusation Against: Case No. 4213		
12	AMERICA Q. DEVERA 3716 Seneca Avenue		
13	Los Angeles, CA 90039 A C C U S A T I O N		
14	Pharmacy Technician Registration No. TCH 56043		
15	Respondent.		
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20	Complainant alleges:		
21	<u>PARTIES</u>		
22	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity		
23	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.		
24	2. On or about April 16, 2004, the Board of Pharmacy issued Pharmacy Technician		
25	Registration Number TCH 56043 to America Q. Devera (Respondent). The Pharmacy		
26	Technician Registration was in full force and effect at all times relevant to the charges brought		
27	herein and will expire on September 30, 2013, unless renewed.		
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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 states:
- "(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.
 - 5. Section 4051 of the Code states:
- "(a) Except as otherwise provided in this chapter, it is unlawful for any person to manufacture, compound, furnish, sell, or dispense any dangerous drug or dangerous device, or to dispense or compound any prescription pursuant to Section 4040 of a prescriber unless he or she is a pharmacist under this chapter."
 - 6. Section 4059 of the Code states:
- "(a) A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.
 - 7. Section 4060 of the Code states:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

8. Section 4301 of the Code 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:

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FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Stealing Controlled Substances)

- 13. Respondent is subject to disciplinary action under section 4301, subdivision (f) of the Code, on the grounds of unprofessional conduct for violating in that Respondent admitted to taking six thousand (6000) tablets of Norco and Vicodin from CVS Pharmacy, store # 9661, without a prescription, and sold them from 2009 to 2010, in violation of section 4301, subdivision (f) of the Code. The circumstances are as follows:
- a. From September 2009 to March 2012, Respondent admitted to assisting another individual by the name of Andrew in getting access to Norco and Vicodin obtained from CVS Pharmacy. Andrew would pay Respondent \$50.00 to \$100.00 every time she assisted him. A total of six bottles were taken overall. Respondent assisted Andrew by placing the bottle in the trash while he came in and took out the trash himself.

SECOND CAUSE FOR DISCIPLINE

(Violation of Controlled Substance Statute)

14. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the Code, in that Respondent admitted to taking six thousand (6000) tablets of Norco and Vicodin from CVS Pharmacy, store # 9661, without a prescription and sold them from 2009 to 2010, in violation of section 4301, subdivision (j) of the Code. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 13 subparagraph (a), inclusive, as though set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Furnishing Drugs or Controlled Substances without Prescription)

15. Respondent is subject to disciplinary action under section 4059, subdivision (a), section 4301, subdivision (o), and section 4051 of the Code, in that Respondent admitted to taking six thousand (6000) tablets of Norco and Vicodin from CVS Pharmacy, store # 9661, without a prescription and sold them from 2009 to 2010, in violation of section 4059, subdivision (a), section 4301, subdivision (o), and section 4051 of the Code. Complainant refers to, and by

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this reference incorporates, the allegations set forth above in paragraph 13 subparagraph (a), inclusive, as though set forth fully.

FOURTH CAUSE FOR DISCIPLINE

(Prescription Required for Controlled Substance)

16. Respondent is subject to disciplinary action under sections 4060 and 4051 of the Code, in that Respondent admitted to taking six thousand (6000) tablets of Norco and Vicodin from CVS Pharmacy, store # 9661, without a prescription and sold them from 2009 to 2010, in violation of sections 4060 and 4051 of the Code. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 13 subparagraph (a), inclusive, as though set forth fully.

FIFTH CAUSE FOR DISCIPLINE

(Possession of a Controlled Substance without a Prescription)

Respondent is subject to disciplinary action under section 11350 of the Health and Safety Code, in that Respondent admitted to taking six thousand (6000) tablets of Norco and Vicodin from CVS Pharmacy, store # 9661, without a prescription and sold them from 2009 to 2010, in violation of section 11350 of the Health and Safety Code. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 13 subparagraph (a), inclusive, as though set forth fully.

SIXTH CAUSE FOR DISCIPLINE

(Possession of a Controlled Substance for Sale)

Respondent is subject to disciplinary action under section 11152 of the Health and Safety Code, in that Respondent admitted to taking six thousand (6000) tablets of Norco and Vicodin from CVS Pharmacy, store # 9661, without a prescription and sold them from 2009 to 2010, in violation of section 11152 of the Health and Safety Code. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 13 subparagraph (a), inclusive, as though set forth fully.

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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. Revoking or suspending Pharmacy Technician Registration Number TCH 56043, issued to America Q. Devera
- 2. Ordering America Q. Devera to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
 - 3. Taking such other and further action as deemed necessary and proper.

DATED: 6/15/12 / Lizine

Executive Officer
Board of Pharmacy

Department of Consumer Affairs

State of California Complainant

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