

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

In the Matter of the First Amended Accusation  
Against:

**ERIC JOSEPH SPECK**  
4077 Coralee Lane  
Lafayette, CA 94549

Pharmacist License No. RPH 67348

Respondent.

Case No. 4855

OAH No. 2013120019

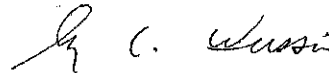
**DECISION AND ORDER**

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 October 15, 2014.

It is so ORDERED on October 8, 2014.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
STAN C. WEISSER  
Board President

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

10 In the Matter of the First Amended Accusation  
11 Against:

Case No. 4855

12 **ERIC JOSEPH SPECK**  
13 **426 Ridgecrest Trail #125**  
**Redding, CA 96003**  
14 **Pharmacist License No. RPH 67348**

OAH No. 2013120019  
**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 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 Brett A. Kingsbury, Deputy Attorney  
23 General.

24 2. Respondent Eric Joseph Speck (Respondent) is represented in this proceeding by  
25 attorney Paul Chan, whose address is: Paul Chan, Capitol Law Offices, 2311 Capitol Avenue,  
26 Sacramento, CA, 95816.

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1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in First Amended  
3 Accusation No. 4855, if proven at a hearing, constitute cause for imposing discipline upon his  
4 Pharmacist License.

5 10. For the purpose of resolving the First Amended Accusation without the expense and  
6 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could  
7 establish a factual basis for the charges in the First Amended Accusation, and that Respondent  
8 hereby gives up his right to contest that factual basis and those charges.

9 11. Respondent agrees that his Pharmacist License is subject to discipline and he agrees  
10 to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

11 RESERVATION

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

16 CONTINGENCY

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

26 14. The parties understand and agree that Portable Document Format (PDF) and facsimile  
27 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile  
28 signatures thereto, shall have the same force and effect as the originals.



1           **2. Report to the Board**

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

10           **3. Interview with the Board**

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

16           **4. Cooperate with Board Staff**

17           Respondent shall cooperate with the board's inspection program and with the board's  
18           monitoring and investigation of respondent's compliance with the terms and conditions of his  
19           probation. Failure to cooperate shall be considered a violation of probation.

20           **5. Continuing Education**

21           Respondent shall provide evidence of efforts to maintain skill and knowledge as a  
22           pharmacist as directed by the board or its designee.

23           **6. Notice to Employers**

24           During the period of probation, respondent shall notify all present and prospective  
25           employers of the decision in case number 4855 and the terms, conditions and restrictions imposed  
26           on respondent by the decision, as follows:

27           Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
28           respondent undertaking any new employment, respondent shall cause his direct supervisor,

1 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's  
2 tenure of employment) and owner to report to the board in writing acknowledging that the listed  
3 individual(s) has/have read the decision in case number 4855, and terms and conditions imposed  
4 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)  
5 submit timely acknowledgment(s) to the board.

6 If respondent works for or is employed by or through a pharmacy employment service,  
7 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity  
8 licensed by the board of the terms and conditions of the decision in case number 4855 in advance  
9 of the respondent commencing work at each licensed entity. A record of this notification must be  
10 provided to the board upon request.

11 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
12 (15) days of respondent undertaking any new employment by or through a pharmacy employment  
13 service, respondent shall cause his direct supervisor with the pharmacy employment service to  
14 report to the board in writing acknowledging that he has read the decision in case number 4855  
15 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure  
16 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

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

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

26 During the period of probation, respondent shall not supervise any intern pharmacist, be the  
27 pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board  
28

1 nor serve as a consultant unless otherwise specified in this order. Assumption of any such  
2 unauthorized supervision responsibilities shall be considered a violation of probation.

3 **8. Reimbursement of Board Costs**

4 As a condition precedent to successful completion of probation, respondent shall pay to the  
5 board its costs of investigation and prosecution in the amount of \$5,649. Respondent shall make  
6 said payments according to a payment plan approved by the board.

7 There shall be no deviation from this payment plan absent prior written approval by the  
8 board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a  
9 violation of probation.

10 The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to  
11 reimburse the board its costs of investigation and prosecution.

12 **9. Probation Monitoring Costs**

13 Respondent shall pay any costs associated with probation monitoring as determined by the  
14 board each and every year of probation. Such costs shall be payable to the board on a schedule as  
15 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall  
16 be considered a violation of probation.

17 **10. Status of License**

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

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

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

26 Following the effective date of this decision, should respondent cease practice due to  
27 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,  
28 respondent may tender his license to the board for surrender. The board or its designee shall have



1 the discretion whether to grant the request for surrender or take any other action it deems  
2 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent  
3 will no longer be subject to the terms and conditions of probation. This surrender constitutes a  
4 record of discipline and shall become a part of the respondent's license history with the board.

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

7 Respondent may not reapply for any license from the board for three (3) years from the effective  
8 date of the surrender. Respondent shall meet all requirements applicable to the license sought as  
9 of the date the application for that license is submitted to the board, including any outstanding  
10 costs.

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

13 Respondent shall notify the board in writing within ten (10) days of any change of  
14 employment. Said notification shall include the reasons for leaving, the address of the new  
15 employer, the name of the supervisor and owner, and the work schedule if known. Respondent  
16 shall further notify the board in writing within ten (10) days of a change in name, residence  
17 address, mailing address, or phone number.

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

20 **13. Tolling of Probation**

21 Except during periods of suspension, respondent shall, at all times while on probation, be  
22 employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any  
23 month during which this minimum is not met shall toll the period of probation, i.e., the period of  
24 probation shall be extended by one month for each month during which this minimum is not met.  
25 During any such period of tolling of probation, respondent must nonetheless comply with all  
26 terms and conditions of probation.

27 Should respondent, regardless of residency, for any reason (including vacation) cease  
28 practicing as a pharmacist for a minimum of 40 hours per calendar month in California,

1 respondent must notify the board in writing within ten (10) days of the cessation of practice, and  
2 must further notify the board in writing within ten (10) days of the resumption of practice. Any  
3 failure to provide such notification(s) shall be considered a violation of probation.

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

7 "Cessation of practice" means any calendar month during which respondent is  
8 not practicing as a pharmacist for at least 40 hours, as defined by Business and  
9 Professions Code section 4000 et seq. "Resumption of practice" means any calendar  
10 month during which respondent is practicing as a pharmacist for at least 40 hours as a  
11 pharmacist as defined by Business and Professions Code section 4000 et seq.

12 **14. Violation of Probation**

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

18 If respondent violates probation in any respect, the board, after giving respondent notice  
19 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that  
20 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a  
21 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If  
22 a petition to revoke probation or an accusation is filed against respondent during probation, or if  
23 the board has submitted a request to the Attorney General's Office to prepare an accusation or  
24 petition to revoke probation, the board shall have continuing jurisdiction and the period of  
25 probation shall be automatically extended until the petition to revoke probation or accusation is  
26 heard and decided.

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1           **15. Completion of Probation**

2           Upon written notice by the board or its designee indicating successful completion of  
3 probation, respondent's license will be fully restored.

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

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

10           If respondent is currently enrolled in the PRP, said participation is now mandatory and as of  
11 the effective date of this decision is no longer considered a self-referral under Business and  
12 Professions Code section 4362(c)(2). Respondent shall successfully participate in and complete  
13 his current contract and any subsequent addendums with the PRP.

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

16           Probation shall be automatically extended until respondent successfully completes the PRP.  
17 Any person terminated from the PRP program shall be automatically suspended by the board.  
18 Respondent may not resume the practice of pharmacy until notified by the board in writing.

19           Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a  
20 licensed practitioner as part of a documented medical treatment shall, without further evidence of  
21 drug or alcohol use, result in the automatic suspension of practice by respondent and be  
22 considered a violation of probation. Respondent may not resume the practice of pharmacy until  
23 notified by the board in writing.

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

1 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the  
2 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs  
3 and controlled substances. Respondent shall not resume practice until notified by the board.

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

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

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

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

15 **17. Random Drug Screening**

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

1 shall be considered a violation of probation and shall result in the automatic suspension of  
2 practice of pharmacy by respondent. Respondent may not resume the practice of pharmacy until  
3 notified by the board in writing.

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

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

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

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

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

21 Respondent shall completely abstain from the possession or use of alcohol, controlled  
22 substances, dangerous drugs and their associated paraphernalia except when the drugs are  
23 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon  
24 request of the board or its designee, respondent shall provide documentation from the licensed  
25 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the  
26 treatment of the respondent. Failure to timely provide such documentation shall be considered a  
27 violation of probation. Respondent shall ensure that he is not in the same physical location as  
28 individuals who are using illicit substances even if respondent is not personally ingesting the

1 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia  
2 not supported by the documentation timely provided, and/or any physical proximity to persons  
3 using illicit substances, shall be considered a violation of probation.

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

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

26 If at any time an approved practitioner determines that respondent is unable to practice  
27 safely or independently as a pharmacist, the practitioner shall notify the board immediately by  
28 telephone and follow up by written letter within three (3) working days. Upon notification from

1 the board or its designee of this determination, respondent shall be automatically suspended and  
2 shall not resume practice until notified by the board that practice may be resumed.

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

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

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

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

19 **20. Community Services Program**

20 Within sixty (60) days of the effective date of this decision, respondent shall submit to the  
21 board or its designee, for prior approval, a community service program in which respondent shall  
22 provide free health-care related services on a regular basis to a community or charitable facility or  
23 agency for at least 48 hours per year for the first two years of probation. Within thirty (30) days  
24 of board approval thereof, respondent shall submit documentation to the board demonstrating  
25 commencement of the community service program. A record of this notification must be  
26 provided to the board upon request. Respondent shall report on progress with the community  
27 service program in the quarterly reports. Failure to timely submit, commence, or comply with the  
28 program shall be considered a violation of probation.

1           **21. Supervised Practice**

2           During the period of probation, respondent shall practice only under the supervision of a  
3 licensed pharmacist not on probation with the board. Upon and after the effective date of this  
4 decision, respondent shall not practice pharmacy and his license shall be automatically suspended  
5 until a supervisor is approved by the board or its designee. The supervision shall be, as required  
6 by the board or its designee, either:

7           Continuous – At least 75% of a work week

8           Substantial - At least 50% of a work week

9           Partial - At least 25% of a work week

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

11          Within thirty (30) days of the effective date of this decision, respondent shall have his  
12 supervisor submit notification to the board in writing stating that the supervisor has read the  
13 decision in case number 4855 and is familiar with the required level of supervision as determined  
14 by the board or its designee. It shall be the respondent's responsibility to ensure that his  
15 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the  
16 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely  
17 acknowledgements to the board shall be considered a violation of probation.

18          If respondent changes employment, it shall be the respondent's responsibility to ensure that  
19 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to  
20 the board. Respondent shall have his new supervisor, within fifteen (15) days after employment  
21 commences, submit notification to the board in writing stating the direct supervisor and  
22 pharmacist-in-charge have read the decision in case number 4855 and is familiar with the level of  
23 supervision as determined by the board. Respondent shall not practice pharmacy and his license  
24 shall be automatically suspended until the board or its designee approves a new supervisor.  
25 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely  
26 acknowledgements to the board shall be considered a violation of probation.

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

28          During suspension, respondent shall not enter any pharmacy area or any portion of the



1 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of  
2 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices  
3 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act  
4 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient  
5 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the  
6 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs  
7 and controlled substances. Respondent shall not resume practice until notified by the board.

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

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

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

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

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

24         **23. Ethics Course**

25         Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll  
26 in a course in ethics, at respondent's expense, approved in advance by the board or its designee.  
27 Failure to initiate the course during the first year of probation, and complete it within the second  
28 year of probation, is a violation of probation.

1 Respondent shall submit a certificate of completion to the board or its designee within five  
2 days after completing the course.

3 ACCEPTANCE

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

9  
10 DATED: 8/15/14   
11 ERIC JOSEPH SPECK  
12 Respondent

13 I have read and fully discussed with Respondent Eric Joseph Speck the terms and  
14 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
15 I approve its form and content.

16 DATED: 8-18-14   
17 Paul Chan  
18 Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

Dated: Sept 15, 2014

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
JOSHUA A. ROOM  
Supervising Deputy Attorney General



BRETT A. KINGSBURY  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**First Amended Accusation No. 4855**

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*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the First Amended Accusation  
11 Against:

Case No. 4855

12 **ERIC JOSEPH SPECK**  
13 **5402 Stonehurst Drive**  
**Martinez, CA 94553**

**FIRST AMENDED ACCUSATION**

14 **Pharmacist License No. RPH 67348**

15 Respondent.

16  
17  
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about July 26, 2012, the Board of Pharmacy issued Pharmacist License Number  
24 RPH 67348 to Eric Joseph Speck (Respondent). The Pharmacist License was in full force and  
25 effect at all times relevant to the charges brought herein and will expire on July 31, 2014, unless  
26 renewed.

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1 **JURISDICTIONAL, STATUTORY & REGULATORY PROVISIONS**

2 3. This First Amended Accusation 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 (Code) unless otherwise indicated.

5 4. Section 4300 of the Code states:

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

7 "(b) The board shall discipline the holder of any license issued by the board, whose default  
8 has been entered or whose case has been heard by the board and found guilty, by any of the  
9 following methods:

10 "(1) Suspending judgment.

11 "(2) Placing him or her upon probation.

12 "(3) Suspending his or her right to practice for a period not exceeding one year.

13 "(4) Revoking his or her license.

14 "(5) Taking any other action in relation to disciplining him or her as the board in its  
15 discretion may deem proper.

16 ". . . .

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

22 5. Section 4300.1 of the Code states:

23 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by  
24 operation of law or by order or decision of the board or a court of law, the placement of a license  
25 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board  
26 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary  
27 proceeding against, the licensee or to render a decision suspending or revoking the license."

28 ///

1       6.     Section 4301 of the Code states:

2           "The board shall take action against any holder of a license who is guilty of unprofessional  
3 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.  
4 Unprofessional conduct shall include, but is not limited to, any of the following:

5           ". . . .

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

11          ". . . .

12          "(l) The conviction of a crime substantially related to the qualifications, functions, and  
13 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
14 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
15 substances or of a violation of the statutes of this state regulating controlled substances or  
16 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
17 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
18 The board may inquire into the circumstances surrounding the commission of the crime, in order  
19 to fix the degree of discipline or, in the case of a conviction not involving controlled substances or  
20 dangerous drugs, to determine if the conviction is of an offense substantially related to the  
21 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
22 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
23 of this provision. The board may take action when the time for appeal has elapsed, or the  
24 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
25 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
26 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
27 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
28 indictment.

1         7.     Section 4022 of the Code states:

2         "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in  
3 humans or animals, and includes the following:

4         "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without  
5 prescription," "Rx only," or words of similar import.

6         "(b) Any device that bears the statement: "Caution: federal law restricts this device to sale  
7 by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the blank to be filled  
8 in with the designation of the practitioner licensed to use or order use of the device.

9         "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
10 prescription or furnished pursuant to Section 4006."

11         8.     Section 490 of the Code provides, in pertinent part, that a board may suspend or  
12 revoke a license on the ground that the licensee has been convicted of a crime substantially related  
13 to the qualifications, functions, or duties of the business or profession for which the license was  
14 issued.

15         9.     California Code of Regulations, title 16, section 1770, states:

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

22   **COSTS**

23         10.    Section 125.3 of the Code states, in pertinent part, that the Board may request the  
24 administrative law judge to direct a licensee found to have committed a violation or violations of  
25 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
26 enforcement of the case.

27                         ///

28                         ///



1 **DRUGS**

2 11. **Toluene** is an intoxicating substance commonly used in products such as paint, glue,  
3 and paint thinner and a dangerous drug pursuant to section 4022 of the Code. Penal Code section  
4 381 makes being under the influence of toluene a misdemeanor.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Dangerous Use of Dangerous Drug)**

7 12. Respondent is subject to disciplinary action under section 4301(h) of the Code in that  
8 Respondent used a dangerous drug in a manner that was dangerous to himself, to others, or to the  
9 public. The circumstances are as follows:

10 13. On or about April 15, 2013, Respondent was arrested after driving his vehicle while  
11 intoxicated and failing a field sobriety test. When initially approached by police, Respondent  
12 stated he had a gun and started to reach for it before officers stopped him.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Criminal Conviction)**

15 14. Respondent is subject to disciplinary action under sections 490 and/or 4301(l) of the  
16 Code in that Respondent was convicted of a crime substantially related to the qualifications,  
17 functions, or duties of a pharmacist. The circumstances are as follows:

18 15. On or about June 18, 2013, in the Superior Court of California for the County of  
19 Shasta, in the case entitled *The People of the State of California v. Eric Joseph Speck*, Docket #  
20 MC RD CRF 130002562, Respondent pled no contest to and was found guilty of violating  
21 California Penal Code sections 246.3 (Discharge of Firearm with Gross Negligence), a  
22 misdemeanor, 594(b)(2)(A) (Vandalism Less Than \$400), a misdemeanor, and 647(f) (Public  
23 Intoxication), a misdemeanor. The circumstances were that on or about April 24, 2013, while  
24 heavily intoxicated on a combination of toluene and/or other drugs and/or alcohol, Respondent  
25 discharged a firearm in his home and subsequently kicked down the door to a neighbor's  
26 residence.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Dangerous Use of Alcohol or Dangerous Drug)**

3 16. Respondent is subject to disciplinary action under section 4301(h) of the Code in that  
4 Respondent used a dangerous drug and/or alcohol to an extent or in a manner dangerous to  
5 himself, to others, or to the public. The circumstances are described above in the Second Cause  
6 for Discipline.

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Dangerous Use of Alcohol)**

9 17. Respondent is subject to disciplinary action under section 4301(h) of the Code in that  
10 Respondent used alcohol to an extent or in a manner dangerous to himself, to others, or to the  
11 public. The circumstances were that on or around September 21, 2013, Respondent consumed  
12 alcohol at the Holiday Inn in Chico, California, while taking prescription medication not  
13 recommended to be mixed with alcohol. Asserting the hotel was on fire, Respondent engaged the  
14 fire line main, dumping large quantities of water onto the floor. Respondent then flipped over a  
15 large table, breaking the glass top, and began to try to break off one of the table legs. When hotel  
16 employees tried to stop Respondent, Respondent became violent, striking one of them.  
17 Respondent was subsequently restrained by hotel employees and arrested.

18 **FIFTH CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct)**

20 18. Respondent is subject to disciplinary action under section 4301 of the Code in that  
21 Respondent engaged in unprofessional conduct. The circumstances are described above in the  
22 First, Second, and Fourth Causes for Discipline.

23 **PRAYER**

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

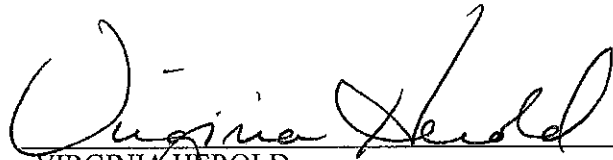
26 1. Revoking or suspending Pharmacist License Number RPH 67348, issued to Eric  
27 Joseph Speck;  
28

1           2.     Ordering Eric Joseph Speck to pay the Board of Pharmacy the reasonable costs of the  
2 investigation and enforcement of this case, pursuant to Business and Professions Code section  
3 125.3;

4           3.     Taking such other and further action as deemed necessary and proper.  
5

6  
7 DATED: \_\_\_\_\_

6/13/14



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

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