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

In the Matter of the Petition to Revoke
Probation Against:

Case No. 5213

MICHAEL JOE MATTIA
7860 El Paso Street
La Mesa, CA 91942

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

**Pharmacy Technician Registration No. TCH
122204**

Respondent.

FINDINGS OF FACT

1. On or about July 14, 2014, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Petition to Revoke Probation Case No. 5213 against Michael Joe Mattia (Respondent) before the Board of Pharmacy. (Petition to Revoke Probation attached as Exhibit A.)

2. On or about December 30, 2013, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 122204 to Respondent. The Pharmacy Technician Registration

1 was suspended on or about December 31, 2013 pursuant to the terms and conditions of probation
2 and will expire on January 31, 2015, unless renewed.

3 3. On or about July 28, 2014, Respondent was served by Certified and First Class Mail
4 copies of the Petition to Revoke Probation Case No. 5213, Statement to Respondent, Notice of
5 Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,
6 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and
7 Professions Code section 4100, is required to be reported and maintained with the Board.
8 Respondent's address of record was and is:

9 7860 El Paso Street
10 La Mesa, CA 91942.

11 4. Service of the Petition to Revoke Probation was effective as a matter of law under the
12 provisions of Government Code section 11505, subdivision (c) and/or Business & Professions
13 Code section 124.

14 5. On or about October 15, 2014, the aforementioned documents were returned by the
15 U.S. Postal Service marked "Addressee Unknown." The address on the documents was the same
16 as the address on file with the Board. Respondent failed to maintain an updated address with the
17 Board and the Board has made attempts to serve the Respondent at the address on file.
18 Respondent has not made himself available for service and therefore, has not availed himself of
19 his right to file a notice of defense and appear at hearing.

20 6. Government Code section 11506 states, in pertinent part:

21 (c) The respondent shall be entitled to a hearing on the merits if the respondent
22 files a notice of defense, and the notice shall be deemed a specific denial of all parts
23 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

24 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
25 of the Petition to Revoke Probation, and therefore waived his right to a hearing on the merits of
26 Petition to Revoke Probation No. 5213.

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1 8. California Government Code section 11520 states, in pertinent part:

2 (a) If the respondent either fails to file a notice of defense or to appear at the
3 hearing, the agency may take action based upon the respondent's express admissions
4 or upon other evidence and affidavits may be used as evidence without any notice to
5 respondent.

6 9. Pursuant to its authority under Government Code section 11520, the Board finds
7 Respondent is in default. The Board will take action without further hearing and, based on the
8 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
9 taking official notice of all the investigatory reports, exhibits and statements contained therein on
10 file at the Board's offices regarding the allegations contained in Petition to Revoke Probation No.
11 5213, finds that the charges and allegations in Petition to Revoke Probation No. 5213, are
12 separately and severally, found to be true and correct by clear and convincing evidence.

12 **DETERMINATION OF ISSUES**

13 1. Based on the foregoing findings of fact, Respondent Michael Joe Mattia has subjected
14 his Pharmacy Technician Registration No. TCH 122204 to discipline.

15 2. The agency has jurisdiction to adjudicate this case by default.

16 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
17 Registration based upon the following violations alleged in the Petition to Revoke Probation
18 which are supported by the evidence contained in the Default Decision Evidence Packet in this
19 case.

20 a. Respondent's probation is subject to revocation because he failed to comply
21 with Probation Condition 4, which required him to interview with the Board.

22 b. Respondent's probation is subject to revocation because he failed to comply
23 with Probation Condition 5, which required him to cooperate with Board staff.

24 c. Respondent's probation is subject to revocation because he failed to comply
25 with the Probation Condition 10, which required him to notify the Board of a change in address of
26 record.
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1 d. Respondent's probation is subject to revocation because he failed to comply
2 with the Probation Condition 15, which required him to attend substance abuse recovery relapse
3 prevention and support groups.

4 e. Respondent's probation is subject to revocation because he failed to comply
5 with the Probation Condition 16, which required him to participate in random drug screening.

6 f. Respondent's probation is subject to revocation because he failed to comply
7 with the Probation Condition 20, which required him to provide a physician to coordinate and
8 monitor his prescriptions for dangerous drugs, controlled substances, or mood-altering drugs.

9 **ORDER**

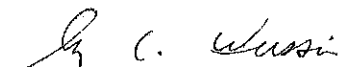
10 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 122204, heretofore
11 issued to Respondent Michael Joe Mattia, is revoked.

12 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
13 written motion requesting that the Decision be vacated and stating the grounds relied on within
14 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
15 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

16 This Decision shall become effective on February 11, 2015.

17 It is so ORDERED January 12, 2015.

18 BOARD OF PHARMACY
19 DEPARTMENT OF CONSUMER AFFAIRS
20 STATE OF CALIFORNIA

21 By 
22 STAN C. WEISSER
23 Board President

24 70989299.DOC
25 DOJ Matter ID:SD2014707321

26 Attachment:
27 Exhibit A: Petition to Revoke Probation
28

Exhibit A

Petition to Revoke Probation

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 KAREN L. GORDON
Deputy Attorney General
4 State Bar No. 137969
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2073
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Petition to Revoke
12 Probation Against:

Case No. 5213

13 **MICHAEL JOE MATTIA**
14 **7860 El Paso Street**
La Mesa, CA 91942

PETITION TO REVOKE PROBATION

15 **Pharmacy Technician Registration**
16 **No. TCH 122204**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about December 30, 2013, the Board of Pharmacy issued Pharmacy Technician
25 Registration Number TCH 122204 to Michael Joe Mattia (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 January 31, 2015, unless renewed.

28 ///

3. In a disciplinary action entitled "*In the Matter of Statement of Issues Against Michael Joe Mattia*," Case No. 4426, the Board of Pharmacy issued a decision effective December 20, 2013, in which a Pharmacy Technician Registration was issued to Respondent on December 30, 2013, then immediately revoked. However, the revocation was stayed and Respondent's Pharmacy Technician Registration was placed on probation for a period of five (5) years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

JURISDICTION

4. Section 4300, subdivision (a) of the Business and Professions Code (Code) states "Every license issued may be suspended or revoked."

5. Section 4300.1 of the Code states:

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

6. This Petition to Revoke Probation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs under Probation Term and Condition Number 12 of the Decision and Order. That term and condition states:

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

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

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FIRST CAUSE TO REVOKE PROBATION

(Interview with the Board)

7. At all times after the effective date of Respondent's probation, Condition 4 stated:

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

8. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 4, referenced above. The facts and circumstances regarding this violation are as follows:

a. On or about December 30, 2013, the Board mailed a letter to Respondent notifying him that he was to report for an office conference on January 13, 2014 in Cerritos, California, in order to review and clarify the terms of his probation. Respondent was warned that failure to appear for a scheduled interview with the Board would be considered a violation of his probation. Respondent failed to appear at the interview. The Board mailed a letter to Respondent dated January 15, 2014 advising Respondent that he was noncompliant with Condition 4 of his probation, and that the office conference would be rescheduled.

b. On or about February 24, 2014, the Board mailed a letter to Respondent notifying him that he was to report for an office conference on March 10, 2014 in Cerritos, California, in order to review and clarify the terms of his probation. Respondent was warned that failure to appear for a scheduled interview with the Board would be considered a violation of his probation. Respondent failed to appear at the interview. The Board mailed a letter to Respondent dated March 12, 2014 advising Respondent that he was noncompliant with Condition 4 of his probation.

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1 **FOURTH CAUSE TO REVOKE PROBATION**

2 **(Attend Substance Abuse Recovery Relapse Prevention and Support Groups)**

3 13. At all times after the effective date of Respondent's probation, Condition 15 stated:

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

8
9 14. Respondent's probation is subject to revocation because he failed to comply with
10 Probation Condition 15, referenced above. The facts and circumstances regarding this violation
11 are that Respondent did not submit to the Board for pre-approval a substance abuse recovery
12 relapse prevention and support group, and failed to provide proof of attending at least one meeting
13 per week. The Board mailed a letter to Respondent dated March 12, 2014 advising Respondent
14 that he was noncompliant with Condition 15 of his probation.

15 **FIFTH CAUSE TO REVOKE PROBATION**

16 **(Random Drug Screening)**

17 15. At all times after the effective date of Respondent's probation, Condition 16 stated:

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

27 During suspension, respondent shall not enter any pharmacy area or any portion of
28 or any other board licensed premises (wholesaler, veterinary food-animal drug retailer or
any other distributor of drugs) any drug manufacturer, or any other location where

1 dangerous drugs and devices or controlled substances are maintained. Respondent shall
2 not do any act involving drug selection, selection of stock, manufacturing, compounding
3 or dispensing; nor shall respondent manage, administer, or assist any licensee of the board.
4 Respondent shall not have access to or control the ordering, manufacturing or dispensing
5 of dangerous drugs and devices or controlled substances. Respondent shall not resume
6 work until notified by the board.

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

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

12 16. Respondent's probation is subject to revocation because he failed to comply with
13 Probation Condition 16, referenced above. The facts and circumstances regarding this violation
14 are as follows:

15 a. On or about December 30, 2013, the Board mailed a letter to Respondent
16 notifying him that he was required to enroll in the Board's random drug-screening program
17 (FirstLab) no later than January 27, 2014. The letter enclosed FirstLab Enrollment Instructions.

18 b. In a letter to Respondent dated February 24, 2014, Respondent was advised that
19 he was noncompliant with Condition 16 in that he did not enroll with FirstLab by January 27,
20 2014. Respondent was directed to complete the enrollment process immediately upon receipt of
21 the letter. Respondent was warned that failure to comply with Condition 16 would be considered
22 a violation of his probation. Respondent failed to enroll in the drug-screening program.

23 c. In a letter to Respondent dated March 12, 2014, Respondent was directed to
24 enroll in the drug-screening program no later than March 26, 2014. Respondent failed to comply
25 with the directive.

26 SIXTH CAUSE TO REVOKE PROBATION

27 (Prescription Coordination and Monitoring of Prescription Use)

28 17. At all times after the effective date of Respondent's probation, Condition 20 stated:

Within thirty (30) days of the effective date of this decision, respondent shall submit
to the board, for its prior approval, the name and qualifications of a single physician, nurse
practitioner, physician assistant, or psychiatrist of respondent's choice, who shall be aware
of the respondent's history [with the use of alcohol, controlled substances, and/or
dangerous drugs, and/or of mental illness, and/or of gambling addiction] and who will
coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled
substances or mood-altering drugs. The approved

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

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

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

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

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

18. Respondent's probation is subject to revocation because he failed to comply with
Probation Condition 20, referenced above. The facts and circumstances regarding this violation
are that in a letter to Respondent dated March 12, 2014, Respondent was advised that he was
noncompliant with Condition 20 of his probation. The letter directed Respondent to provide to
the Board, no later than March 26, 2014, the name and qualifications of a single healthcare
provider who would coordinate and monitor Respondent's prescriptions for dangerous drugs,
controlled substances, or mood-altering drugs. Respondent failed to comply with the directive.

PRAYER

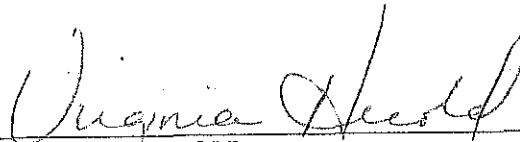
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking the probation that was granted by the Board of Pharmacy in Case No. 4426 and imposing the disciplinary order that was stayed thereby revoking Pharmacy Technician Registration No. TCH 122204 issued to Michael Joe Mattia;

2. Revoking or suspending Pharmacy Technician Registration No. TCH 122204, issued to Michael Joe Mattia;

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

DATED: 7/14/14



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

SD2014707321

Exhibit A

Decision and Order

Board of Pharmacy Case No. 4426

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

In the Matter of the Statement of Issues Against:

Case No. 4426

MICHAEL JOE MATTIA
7860 El Paso Street
La Mesa, CA 91942

Application for Pharmacy Technician
Registration

Respondent.

DECISION AND ORDER

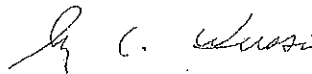
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on December 20, 2013.

It is so ORDERED on December 13, 2013.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By


STAN C. WEISSER
Board President

RECEIVED BY THE BOARD OF PHARMACY

DATE: 12/13/13

RECEIVED BY THE BOARD OF PHARMACY
DATE: 12/13/13
FILED: 12/13/13
RECEIVED BY THE BOARD OF PHARMACY
DATE: 12/13/13
FILED: 12/13/13

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 KAREN L. GORDON
Deputy Attorney General
4 State Bar No. 137969
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5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
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7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

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

13 **MICHAEL JOE MATTIA**
14 **7860 El Paso Street**
La Mesa, CA 91942

15 **Pharmacy Technician Registration**

16 Respondent.

Case No. 4426

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18
19 In the interest of a prompt and speedy settlement of this matter, consistent with the public
20 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
21 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will
22 be submitted to the Board for approval and adoption as the final disposition of the Statement of
23 Issues.

24 **PARTIES**

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 Karen L. Gordon, Deputy Attorney
28 General.

2. Michael Joe Mattia (Respondent) is represented in this proceeding by attorney Richard Lee Katzman, whose address is: 7676 Hazard Center Drive, Fifth Floor, San Diego, California 92108.

3. On or about February 16, 2012, Respondent filed an application dated December 13, 2011, with the Board of Pharmacy to obtain a Pharmacy Technician Registration.

JURISDICTION

4. Statement of Issues No. 4426 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on January 25, 2013. A copy of Statement of Issues No. 4426 is attached as Exhibit A and incorporated herein by reference.

ADVICE AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Statement of Issues No. 4426. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his 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 Statement of Issues No. 4426.

9. Respondent agrees that his Pharmacy Technician Registration is subject to denial and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

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 settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his 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 Settlement 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 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Settlement and Disciplinary 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 Settlement and Disciplinary 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 Disciplinary Order:

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- ☐ an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- ☐ a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- ☐ a conviction of any crime
- ☐ discipline, citation, or other administrative action filed by any state or federal agency

which involves respondent's pharmacy technician registration or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

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

3. Report to the Board

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

4. Interview with the Board

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

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1 5. Cooperate with Board Staff

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

5 6. Notice to Employers

6 During the period of probation, respondent shall notify all present and prospective
7 employers of the decision in case number 4426 and the terms, conditions and restrictions imposed
8 on respondent by the decision, as follows:

9 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
10 respondent undertaking any new employment, respondent shall cause his direct supervisor,
11 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
12 tenure of employment) and owner to report to the board in writing acknowledging that the listed
13 individual(s) has/have read the decision in case number 4426 and the terms and conditions
14 imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or
15 supervisor(s) submit timely acknowledgement(s) to the board.

16 If respondent works for or is employed by or through a pharmacy employment service,
17 respondent must notify his direct supervisor, pharmacist-in-charge and owner at every pharmacy
18 of the terms and conditions of the decision in case number 4426 in advance of the respondent
19 commencing work at each pharmacy. A record of this notification must be provided to the board
20 upon request.

21 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
22 (15) days of respondent undertaking any new employment by or through a pharmacy employment
23 service, respondent shall cause his direct supervisor with the pharmacy employment service to
24 report to the board in writing acknowledging that he has read the decision in case number 4426
25 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
26 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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1 Failure to timely notify present or prospective employer(s) or to cause that/those
2 employer(s) to submit timely acknowledgements to the board shall be considered a violation of
3 probation.

4 "Employment" within the meaning of this provision shall include any full-time,
5 part-time, temporary or relief service or pharmacy management service as a pharmacy
6 technician or in any position for which a pharmacy technician license is a requirement
7 or criterion for employment, whether the respondent is considered an employee,
8 independent contractor or volunteer.

9 **7. Probation Monitoring Costs**

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

14 **8. Status of License**

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

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

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

23 Following the effective date of this decision, should respondent cease work due to
24 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
25 respondent may tender his pharmacy technician license to the board for surrender. The board or
26 its designee shall have the discretion whether to grant the request for surrender or take any other
27 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
28 license, respondent will no longer be subject to the terms and conditions of probation. This

1 surrender constitutes a record of discipline and shall become a part of the respondent's license
2 history with the board.

3 Upon acceptance of the surrender, respondent shall relinquish his pharmacy technician
4 license to the board within ten (10) days of notification by the board that the surrender is
5 accepted. Respondent may not reapply for any license, permit, or registration from the board for
6 three (3) years from the effective date of the surrender. Respondent shall meet all requirements
7 applicable to the license sought as of the date the application for that license is submitted to the
8 board.

9 10. Notification of a Change in Name, Residence Address, Mailing Address or
10 Employment

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

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

18 11. Tolling of Probation

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

25 Should respondent, regardless of residency, for any reason (including vacation) cease
26 working as a pharmacy technician for a minimum of 40 hours per calendar month in California,
27 respondent must notify the board in writing within ten (10) days of cessation of work and must

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1 further notify the board in writing within ten (10) days of the resumption of the work. Any failure
2 to provide such notification(s) shall be considered a violation of probation.

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

6 "Cessation of work" means calendar month during which respondent is not
7 working for at least _____ hours as a pharmacy technician, as defined in Business

8 and Professions Code section 4115. "Resumption of work" means any calendar
9 month during which respondent is working as a pharmacy technician for at least
10 _____ hours as a pharmacy technician as defined by Business and Professions
11 Code section 4115.

12 12. 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, the
23 board shall have continuing jurisdiction, and the period of probation shall be automatically
24 extended until the petition to revoke probation or accusation is heard and decided.

25 13. Completion of Probation

26 Upon written notice by the board indicating successful completion of probation,
27 respondent's pharmacy technician license will be fully restored.

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1 14. No Ownership of Licensed Premises

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

9 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
10 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
11 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or
12 has any legal or beneficial interest in, or serve as a manager, administrator, member, officer,
13 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
14 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold
15 that interest, but only to the extent of that position or interest as of the effective of this decision.
16 Violation of this restriction shall be considered a violation of probation.

17 15. Attend Substance Abuse Recovery Relapse Prevention and Support Groups

18 Within thirty (30) days of the effective date of this decision, respondent shall begin regular
19 attendance at a recognized and established substance abuse recovery support group in California,
20 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board
21 or its designee. Respondent must attend at least one group meeting per week unless otherwise
22 directed by the board or its designee. Respondent shall continue regular attendance and submit
23 signed and dated documentation confirming attendance with each quarterly report for the duration
24 of probation. Failure to attend or submit documentation thereof shall be considered a violation of
25 probation.

26 16. Random Drug Screening

27 Respondent, at his own expense, shall participate in random testing, including but not
28 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug

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

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

23 Respondent shall not direct, control or perform any aspect of the practice of pharmacy.
24 Subject to the above restrictions, respondent may continue to own or hold an interest in any
25 licensed premises in which he holds an interest at the time this decision becomes effective unless
26 otherwise specified in this order.

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

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1 17. Work Site Monitor

2 Within ten (10) days of the effective date of this decision, respondent shall identify a work
3 site monitor, for prior approval by the board, who shall be responsible for supervising respondent
4 during working hours. Respondent shall be responsible for ensuring that the work site monitor
5 reports in writing to the board quarterly. Should the designated work site monitor determine at
6 any time during the probationary period that respondent has not maintained sobriety, he shall
7 notify the board immediately, either orally or in writing as directed. Should respondent change
8 employment, a new work site monitor must be designated, for prior approval by the board, within
9 ten (10) days of commencing new employment. Failure to identify an acceptable initial or
10 replacement work site monitor, or to ensure quarterly reports are submitted to the board, shall be
11 considered a violation of probation.

12 18. Notification of Departure

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

17 19. Abstain from Drugs and Alcohol Use

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

20. Prescription Coordination and Monitoring of Prescription Use

Within thirty (30) days of the effective date of this decision, respondent shall submit to the board, for its prior approval, the name and qualifications of a single physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's history [with the use of alcohol, controlled substances, and/or dangerous drugs, and/or of mental illness, and/or of gambling addiction] and who will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The approved practitioner shall be provided with a copy of the board's [accusation or petition to revoke probation] and decision. A record of this notification must be provided to the board upon request. Respondent shall sign a release authorizing the practitioner to communicate with the board about respondent's treatment(s). The coordinating physician, nurse practitioner, physician assistant, or psychiatrist shall report to the board on a quarterly basis for the duration of probation regarding respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances. The board may require that the single coordinating physician, nurse practitioner, physician assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine. Should respondent, for any reason, cease supervision by the approved practitioner, respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice to the board or its designee for its prior approval. Failure to timely submit the selected practitioner or replacement practitioner to the board for approval, or to ensure the required reporting thereby on the quarterly reports, shall be considered a violation of probation.

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

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


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

13 Failure to comply with this suspension shall be considered a violation of probation.
14

15 ACCEPTANCE

16 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
17 discussed it with my attorney, Richard Lee Katzman. I understand the stipulation and the effect it
18 will have on my Pharmacy Technician Registration. I enter into this Stipulated Settlement and
19 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
20 Decision and Order of the Board of Pharmacy.

21
22 DATED: 10/12/13


23 MICHAEL JOE MATTIA
24 Respondent
25
26
27
28

APPROVAL

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

DATED: 4/23/13


RICHARD LEE KATZMAN
Attorney for Respondent

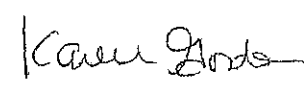
ENDORSEMENT

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: 10-16-13

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General


KAREN L. GORDON
Deputy Attorney General
Attorneys for Complainant

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