

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

In the Matter of the First Amended Accusation  
Against:

**KRISTIN LEASE-SHAW**

**P.O. Box 9397  
South Lake Tahoe, CA 96158  
Pharmacist License No. RPH 52971**

Respondent.

Case No. 5379

OAH No. 2015040392

**DECISION AND ORDER**

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

This Decision shall become effective on February 19, 2016.

It is so ORDERED on January 20, 2016.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
Amy Gutierrez, Pharm.D.  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 JEFFREY M. PHILLIPS  
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*Attorneys for Complainant*

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

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

13 **KRISTIN LEASE-SHAW**  
14 **P.O. Box 9394**  
**South Lake Tahoe, CA 96158**

15 **Pharmacist License No. RPH 52971**

16 **Respondent.**

Case No. 5379

OAH No. 2015040392

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

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

20 **PARTIES**

21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
22 She brought this action solely in her official capacity and is represented in this matter by Kamala  
23 D. Harris, Attorney General of the State of California, by Jeffrey M. Phillips, Deputy Attorney  
24 General.

25 2. Kristin Lease-Shaw is represented in this proceeding by attorney Kevin D. Cauley,  
26 whose address is 624 South Grand Avenue, 22nd Floor, Los Angeles, CA 90017.

27 3. On or about September 14, 2001, the Board of Pharmacy issued Pharmacist License  
28 No. RPH 52971 to Kristin Lease-Shaw (Respondent). The Pharmacist License was in full force

1 and effect at all times relevant to the charges brought in Accusation No. 5379 and expired on  
2 August 31, 2015.

3 JURISDICTION

4 4. Accusation No. 5379 was filed before the Board of Pharmacy (Board), Department of  
5 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other  
6 statutorily required documents were properly served on Respondent on February 5, 2015.  
7 Respondent timely filed her Notice of Defense contesting the Accusation. On November 3, 2015,  
8 the Board served the First Amended Accusation on Respondent. A copy of First Amended  
9 Accusation No. 5379 is attached as Exhibit A and incorporated by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, fully discussed with counsel, and understands the  
12 charges and allegations in First Amended Accusation No. 5379. Respondent also has carefully  
13 read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of  
14 License and Order.

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

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

24 CULPABILITY

25 8. Respondent understands and agrees that the charges and allegations in First  
26 Amended Accusation No. 5379, if proven at a hearing, constitute cause for imposing discipline  
27 upon her Pharmacist License.

28 //

1           9.           For the purpose of resolving the First Amended Accusation without the expense  
2 and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could  
3 establish a factual basis for the charges in the First Amended Accusation, and that Respondent  
4 hereby gives up her right to contest those charges.

5           10.          Respondent agrees that her Pharmacist License is subject to discipline and she  
6 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

7                               RESERVATION

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

12                              CONTINGENCY

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

22          13.          The parties understand and agree that Portable Document Format (PDF) and facsimile  
23 copies of this Stipulated Surrender of License and Order, including Portable Document Format  
24 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

25          14.          This Stipulated Surrender of License and Order is intended by the parties to be an  
26 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
27 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
28 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order

1 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing  
2 executed by an authorized representative of each of the parties.

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

5 **ORDER**

6 IT IS HEREBY ORDERED that Pharmacist License No. RPH 52971, issued to Respondent  
7 Kristin Lease-Shaw, is surrendered and accepted by the Board of Pharmacy.

8 1. The surrender of Respondent's Pharmacist License and the acceptance of the  
9 surrendered license by the Board shall constitute the imposition of discipline against Respondent.  
10 This stipulation constitutes a record of the discipline and shall become a part of Respondent's  
11 license history with the Board of Pharmacy.

12 2. Respondent shall lose all rights and privileges as a pharmacist in California as of the  
13 effective date of the Board's Decision and Order.

14 3. Respondent shall cause to be delivered to the Board her pocket license and, if one was  
15 issued, her wall certificate on or before the effective date of the Decision and Order.

16 4. If Respondent ever files an application for licensure or a petition for reinstatement in  
17 the State of California, the Board shall treat it as a new application and all of the charges and  
18 allegations contained in First Amended Accusation No. 5379 shall be deemed to be true, correct  
19 and admitted by Respondent when the Board determines whether to grant or deny the application.  
20 Respondent shall wait three years from the effective date before she may file an application for  
21 licensure with the Board.

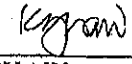
22 5. Respondent shall pay the agency its costs of investigation and enforcement in the  
23 amount of \$8,000.00 prior to issuance of a new or reinstated license.

24 6. If Respondent should ever apply or reapply for a new license or certification, or  
25 petition for reinstatement of a license by any other health care licensing agency in the State of  
26 California, all of the charges and allegations contained in First Amended Accusation No. 5379  
27 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement  
28 of Issues or any other proceeding seeking to deny or restrict licensure.

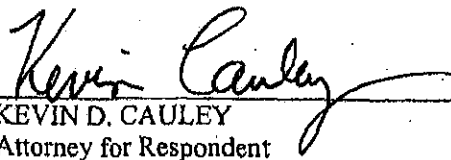
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ACCEPTANCE

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


DATED: 11/19/2015   
KRISTIN LEASE-SHAW  
Respondent

I have read and fully discussed with Respondent Kristin Lease-Shaw the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 11/20/15   
KEVIN D. CAULEY  
Attorney for Respondent

ENDORSEMENT

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

Dated: 11/23/15  
Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
JANICE K. LACHMAN  
Supervising Deputy Attorney General  
  
JEFFREY M. PHILLIPS  
Deputy Attorney General  
Attorney for Complainant

SA2015101583  
12046548

**Exhibit A**

**First Amended Accusation No. 5379**

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 JEFFREY M. PHILLIPS  
Deputy Attorney General  
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Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

11 In the Matter of the First Amended Accusation  
Against:

12 **KRISTIN LEASE-SHAW, aka**  
13 **KRISTIN LEASE OBERHAUS and**  
14 **KRISTIN ROLFE LEASE OBERHAUS**  
15 **P.O. Box 9394**  
**South Lake Tahoe, CA 96158**

16 **Pharmacist License No. RPH 52971**

17 Respondent.

Case No. 5379

OAH No. 2015040392

**FIRST AMENDED ACCUSATION**

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. This First Amended Accusation replaces in its entirety Accusation No. 5379 filed on  
23 February 25, 2015.

24 2. On or about September 14, 2001, the Board of Pharmacy issued Pharmacist License  
25 Number RPH 52971 to Kristin Lease-Shaw, also known as, Kristin Lease Oberhaus and Kristin  
26 Rolfe Lease Oberhaus (Respondent). The Pharmacist License was in full force and effect at all  
27 times relevant to the charges brought herein, but expired on August 31, 2015. On or about  
28 October 5, 2004, Respondent surrendered her license to the Board pursuant to Penal Code section



1 23, in the criminal proceeding entitled *People v. Kristin Rolfe Lease Oberhaus* (El Dorado  
2 Superior Court Case No. S04SRF0309), and the license was suspended by the Board for one year.  
3 On or about November 10, 2005, in a prior disciplinary action entitled *In the Matter of the*  
4 *Accusation Against Kristin Lease Overhaus, aka Kristin Rolfe Lease Oberhaus* before the Board  
5 of Pharmacy, in Case Number 2815, Respondent's license was revoked, with revocation stayed,  
6 one year suspension, and placed on probation for five years, with certain terms and conditions,  
7 including, but not limited to: continuous supervised practice, no access to controlled substances,  
8 random drug screening, abstinence from drug and alcohol use, and completion of a drug  
9 rehabilitation program. On or about February 10, 2015, in this pending disciplinary action  
10 entitled *In the Matter of the Ex Parte Interim Suspension Order Against Kristin Lease-Shaw*,  
11 before the Board of Pharmacy, in Case Number 5379, Respondent's license was suspended and  
12 remains suspended pursuant to Business and Professions Code section 494.

### 13 JURISDICTION

14 3. This Accusation is brought before the Board of Pharmacy (Board), Department of  
15 Consumer Affairs, under the authority of the following laws. All section references are to the  
16 Business and Professions Code unless otherwise indicated.

### 17 STATUTORY PROVISIONS

18 4. Section 4301 of the Code states:

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

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

22 ...

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

26 ...

27 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous  
28 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to

1 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
2 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
3 practice authorized by the license.

4 . . .  
5 "(j) The violation of any of the statutes of this state, or any other state, or of the United  
6 States regulating controlled substances and dangerous drugs.

7 5. Section 4059 of the Code states, in pertinent part, that a person may not furnish any  
8 dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,  
9 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

10 6. Section 4060 of the Code states, in pertinent part, that no person shall possess any  
11 controlled substance, except that furnished to a person upon the prescription of a physician,  
12 dentist, podiatrist, optometrist, veterinarian, or other specifically enumerated licensed health care  
13 provider.

14 7. Section 492 of the Code states, in pertinent part:

15 "Notwithstanding any other provision of law, successful completion of any diversion  
16 program under the Penal Code, or successful completion of an alcohol and drug problem  
17 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of  
18 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2  
19 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that  
20 division, from taking disciplinary action against a licensee or from denying a license for  
21 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a  
22 record pertaining to an arrest."

23 8. Health and Safety Code section 11170 states:

24 No person shall prescribe, administer, or furnish a controlled substance for  
25 himself.

26 9. Health and Safety Code section 11173 states, in pertinent part:

27 (a) No person shall obtain or attempt to obtain controlled substances, or  
28 procure or attempt to procure the administration of or prescription for controlled  
substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the  
concealment of a material fact.

1           10.     Health and Safety Code section 11350 states:

2           (a) Except as otherwise provided in this division, every person who  
3 possesses (1) any controlled substance specified in subdivision (b), (c), (e), or  
4 paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or  
5 (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of  
6 Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled  
7 substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the  
8 written prescription of a physician, dentist, podiatrist, or veterinarian licensed to  
9 practice in this state, shall be punished by imprisonment in a county jail for not more  
10 than one year, except that such person shall instead be punished pursuant to  
11 subdivision (h) of Section 1170 of the Penal Code if that person has one or more prior  
12 convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph  
13 (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring  
14 registration pursuant to subdivision (c) of Section 290 of the Penal Code.

15           (b) Except as otherwise provided in this division, whenever a person who  
16 possesses any of the controlled substances specified in subdivision (a), the judge may,  
17 in addition to any punishment provided for pursuant to subdivision (a), assess against  
18 that person a fine not to exceed seventy dollars (\$70) with proceeds of this fine to be  
19 used in accordance with Section 1463.23 of the Penal Code. The court shall, however,  
20 take into consideration the defendant's ability to pay, and no defendant shall be denied  
21 probation because of his or her inability to pay the fine permitted under this  
22 subdivision.

23           (c) Except in unusual cases in which it would not serve the interest of  
24 justice to do so, whenever a court grants probation pursuant to a felony conviction  
25 under this section, in addition to any other conditions of probation which may be  
26 imposed, the following conditions of probation shall be ordered:

27           (1) For a first offense under this section, a fine of at least one thousand  
28 dollars (\$1,000) or community service.

          (2) For a second or subsequent offense under this section, a fine of at least  
two thousand dollars (\$2,000) or community service.

          (3) If a defendant does not have the ability to pay the minimum fines  
specified in paragraphs (1) and (2), community service shall be ordered in lieu of the  
fine.

#### COST RECOVERY

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

#### CONTROLLED SUBSTANCES

12.     "Ambien," is a brand of zolpidem tartrate, and a Schedule IV controlled substance as  
designated by Health and Safety Code section 11057, subdivision (d)(32).

1 13. "Codeine" is a Schedule II, III and IV controlled substance and Codeine/Tylenol #3  
2 and Codeine/Tylenol #4 are Schedule III controlled substances as designated by Health and Safety  
3 Code section 11056, subdivision (e)(2).

4 14. "Hydrocodone" is a Schedule II controlled substance; and Hydrocodone/APAP has  
5 been rescheduled by the Drug Enforcement Administration from a Schedule III to Schedule II  
6 controlled substance by the Controlled Substances Act (21 CFR Part 1308 § 1308.12; 21 U.S.C.  
7 812 (c)), and is a schedule II controlled substance as designated by Health and Safety Code  
8 section 11055, subdivision (b)(1)(I).

9 15. "Lomotil," a brand of diphenoxylate hydrochloride with atropine sulfate, is a  
10 Schedule V controlled substance as designated by Health and Safety Code section 11058.

11 **STATEMENT OF FACTS**

12 16. On or about June 1, 2014, Respondent was hired as a staff pharmacist by  
13 CVS/Pharmacy, and began working full time as the pharmacist-in-charge at Store No. 9490  
14 located in Pollock Pines, California, in approximately August 2014. In or about mid-December  
15 2014, Respondent began working as a staff pharmacist in Store Nos. 9174 (Truckee) and 9976  
16 (Tahoe City).

17 17. On or about December 18, 2014, Respondent was arrested by a Truckee Police  
18 Officer at Store No. 9174 for violation of Penal Code section 487 (grand theft) after she admitted  
19 stealing medications from three CVS stores (Store Nos. 9490, 9976, and 9174) while on duty as a  
20 pharmacist, in order to self-medicate. Respondent admitted that she stole 560 10/325  
21 hydrocodone pills, 100 5/325 hydrocodone pills, 100 7.5/325 hydrocodone pills, 50 Zolpidem –  
22 10mg ("Ambien"), 25 Lomotil, 400 Tylenol #4 (codeine), and 100 Tylenol #3 (codeine).  
23 Respondent also admitted that on or about December 13, 2014, she stole six (6) Hydrocodone and  
24 fifteen (15) Ambien from Store No. 9174, put them in her purse, and then took them home.

25 18. On or about February 26, 2015, CVS/Pharmacy transmitted copies of amended DEA  
26 106 forms (Report of Theft or Loss of Controlled Substances) and corresponding audits to the  
27 Board, showing the following losses of controlled substances that were attributed to Respondent:

28 //

NDC Number	Trade Name of Drug	Dosage Strength	Amended Quantity Lost/Stolen
<b>CVS Store No. 9490, Pollock Pines; audit period of 04/30/2014 to 12/18/2014</b>			
00093007401	Zolpidem Tartrate	10 mg	156
00278041510	Diphenoxylate-atropine	2.5 mg - .025 mg	1222
00093035001	Acetaminophen - Codeine #4	300 mg - 60 mg	477
00406012505	Hydrocodone/APAP 10/325	10 mg - 325 mg	1,126
00603389028	Hydrocodone/APAP 5/325	5 mg - 325 mg	(overage)
00603389128	Hydrocodone/APAP 7.5 mg - 325 mg	7.5 mg - 325 mg	193
<b>CVS Store No. 9174, Truckee; audit period of 05/01/2014 - 01/05/2015</b>			
00093007401	Zolpidem Tartrate	10 mg	313
00603389028	Hydrocodone/APAP 5	5 mg - 325 mg	18
00603389121	Hydrocodone/APAP 7.5	7.5 mg - 325 mg	114
00406012505	Hydrocodone/APAP 10	10 mg - 325 mg	197
<b>CVS Store No. 9976, Tahoe City; audit period of 10/15/2014 - 12/18/2014</b>			
00093007401	Zolpidem Tartrate	10 mg	111
00093015010	Acetaminophen - Codeine #3	300 mg - 30 mg	100 (reported, but audit shows overage)
00093035001	Acetaminophen - Codeine #4	300 mg - 60 mg	100
00603389128	Hydrocodone/APAP 7.5 mg - 325 mg	7.5 mg - 325 mg	200

**FIRST CAUSE FOR DISCIPLINE**

(Unprofessional Conduct - Moral Turpitude, Dishonesty, Fraud, Deceit)

19. Respondent is subject to disciplinary action under section 4301, subsections (f) and (j), on the grounds of unprofessional conduct, in that she stole controlled substances from her employer, for self-administration, while on duty as a licensed pharmacist, as alleged above, in violation of Health and Safety Code section 11173, subdivision (a).

**SECOND CAUSE FOR DISCIPLINE**

(Unprofessional Conduct - Possession of Controlled Substances)

20. Respondent is subject to disciplinary action under section 4301, subsection (j) and section 4060, on the grounds of unprofessional conduct, in that Respondent possessed controlled substances, without a valid prescription, as alleged above, in violation of Health and Safety Code section 11350, subsection (a).

1 **THIRD CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct – Self-Administration of Controlled Substances)

3 21. Respondent is subject to disciplinary action under section 4301, subsections (h) and  
4 (j) and section 4059, in that Respondent furnished controlled substances to herself in order to self-  
5 medicate, without a valid prescription, as alleged above, in violation of Health and Safety Code  
6 section 11170.

7 **DISCIPLINARY CONSIDERATIONS**

8 22. On or about October 5, 2004, Respondent surrendered her license to the Board  
9 pursuant to Penal Code section 23, in the criminal proceeding entitled *People v. Kristin Rolfe*  
10 *Lease Oberhaus* (El Dorado Superior Court Case No. S04SRF0309), and the license was  
11 suspended by the Board for one year. On or about June 3, 2005, in the criminal case entitled  
12 *People v. Kristin Rolfe Lease Oberhaus* (El Dorado Superior Court Case No. S04SRF0309),  
13 Respondent was convicted by her plea of guilty to violating Penal Code section 487, subdivision  
14 (a) (grand theft by embezzlement), a misdemeanor.

15 23. On or about November 10, 2005, in a prior disciplinary action entitled *In the Matter*  
16 *of the Accusation Against Kristin Lease Overhaus, aka Kristin Rolfe Lease Oberhaus* before the  
17 Board of Pharmacy, in Case Number 2815, Respondent's license was revoked, with revocation  
18 stayed, one year suspension, and placed on probation for five years, with certain terms and  
19 conditions, including, but not limited to: continuous supervised practice, no access to controlled  
20 substances, random drug screening, abstinence from drug and alcohol use, and completion of a  
21 drug rehabilitation program - the Pharmacists Recovery Program (PRP). That decision is now  
22 final and is incorporated by reference as if fully set forth herein.

23 24. On or about February 10, 2015, in this pending disciplinary action entitled *In the*  
24 *Matter of the Ex Parte Interim Suspension Order Against Kristin Lease-Shaw*, before the Board  
25 of Pharmacy, in Case Number 5379, Respondent's license was suspended and remains suspended  
26 pursuant to Business and Professions Code section 494. That decision is incorporated by reference  
27 as if fully set forth herein.

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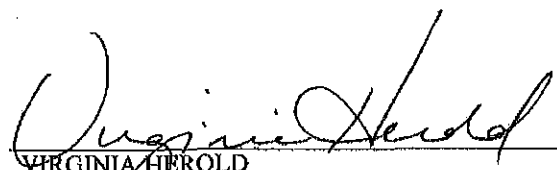
PRAYER

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

1. Revoking or suspending Pharmacist License Number RPH 52971, issued to Kristin Lease-Shaw;
2. Ordering Kristin Lease-Shaw to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED:

10/5/15



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

SA2015100310

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 JEFFREY M. PHILLIPS  
Deputy Attorney General  
4 State Bar No. 154990  
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Sacramento, CA 94244-2550  
6 Telephone: (916) 324-6292  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

11 In the Matter of the *Ex Parte* Interim  
12 Suspension Order Against:

13 **KRISTIN LEASE-SHAW**

14 Respondent.

15 Pharmacist License No. RPH 52971

Case No. 5379  
OAH Case No. 2015020084

13 **INTERIM SUSPENSION ORDER**

14 (Bus. & Prof. Code § 494)

15 **Date: February 10, 2015**

**Time: 9:00 a.m.**

16 **Location: Office of Administrative  
Hearings, Sacramento**

17  
18 On January 10, 2012, at approximately 9:00 a.m. this matter came before the Office of  
19 Administrative Hearings on Petitioner's properly noticed *Ex Parte* Petition for an Interim  
20 Suspension Order, the Honorable Dian Vorters, presiding. Deputy Attorney General Phillips  
21 appeared on behalf of Petitioner, Board of Pharmacy and Stuart Katz, appeared on behalf of  
22 Respondent, Kristin Lease-Shaw. Having reviewed all evidence presented and good cause  
23 appearing, it is determined that:

24 1. Respondent has engaged in acts constituting violations of violations of Business  
25 and Professions Code sections 4301(f), 4059, 4060, 4327 and Health and Safety Code section  
26 11170.

27 2. Permitting Respondent to continue to act as a pharmacist will endanger the  
28 public health, safety, or welfare; and,



1           3.     It appears from the Petition and supporting documents that serious injury would  
2 result to the public before the matter could be heard on notice.

3           IT IS HEREBY ORDERED THAT

4           1.     Original Pharmacist License No. RPH 52971 issued to Kristin Lease-Shaw  
5 (Respondent) is immediately suspended pending further formal disciplinary action by the Board  
6 of Pharmacy and issuance of a final decision and order in such disciplinary action. ~~The next date~~  
7 ~~for a fully noticed hearing to allow Respondent to present affidavits and other documentary~~  
8 ~~evidence and present oral argument will occur within twenty (20) days, and will take place at~~

9           \_\_\_\_\_ m. on \_\_\_\_\_ at the Office of Administrative  
10 ~~Hearings, Sacramento.~~     *Noticed hearing on this ISO is waived by respondent.*

11           2.     During the suspension Respondent shall not practice as a pharmacist directly or  
12 indirectly, nor shall Respondent receive or have set aside for future receipt, any new monies  
13 derived from the practice of pharmacy as defined by the provisions of Business and Professions  
14 Code section 4037 or 4200, et seq.

15           3.     Respondent shall not mislead any person or any entity regarding the reasons for  
16 the suspension of her pharmacist license.

17           4.     Respondent shall immediately surrender to a designated Board representative  
18 all evidence of licensure, including, but not limited to, any pocket license or wall license and  
19 DEA registration.

20           This order is hereby issued and effective immediately.

21           IT IS SO ORDERED.

22           Date: *Feb. 10, 2015*

23           \_\_\_\_\_  
24           Administrative Law Judge

*ALJ  
Dian Votens  
2-10-2015*

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

11 In the Matter of the Accusation Against:

Case No. 5379

12 **KRISTIN LEASE-SHAW, aka**  
13 **KRISTIN LEASE OBERHAUS and**  
14 **KRISTIN ROLFE LEASE OBERHAUS**  
P.O. Box 9394  
South Lake Tahoe, CA 96158

**A C C U S A T I O N**

15 **Pharmacist License No. RPH 52971**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about September 14, 2001, the Board of Pharmacy issued Pharmacist License  
23 Number RPH 52971 to Kristin Lease-Shaw, also known as, Kristin Lease Oberhaus and Kristin  
24 Rolfe Lease Oberhaus (Respondent). The Pharmacist License was in full force and effect at all  
25 times relevant to the charges brought herein and will expire on August 31, 2015, unless renewed.  
26 On or about October 5, 2004, Respondent surrendered her license to the Board pursuant to Penal  
27 Code section 23, in the criminal proceeding entitled *People v. Kristin Rolfe Lease Oberhaus* (El  
28 Dorado Superior Court Case No. S04SRF0309), and the license was suspended by the Board for

1 one year. On or about November 10, 2005, in a prior disciplinary action entitled *In the Matter of*  
2 *the Accusation Against Kristin Lease Overhaus, aka Kristin Rolfe Lease Oberhaus* before the  
3 Board of Pharmacy, in Case Number 2815, Respondent's license was revoked, with revocation  
4 stayed, one year suspension, and placed on probation for five years, with certain terms and  
5 conditions, including, but not limited to: continuous supervised practice, no access to controlled  
6 substances, random drug screening, abstinence from drug and alcohol use, and completion of a  
7 drug rehabilitation program. On or about February 10, 2015, in this pending disciplinary action  
8 entitled *In the Matter of the Ex Parte Interim Suspension Order Against Kristin Lease-Shaw*,  
9 before the Board of Pharmacy, in Case Number 5379, Respondent's license was suspended and  
10 remains suspended pursuant to Business and Professions Code section 494.

### 11 JURISDICTION

12 3. This Accusation is brought before the Board of Pharmacy (Board), Department of  
13 Consumer Affairs, under the authority of the following laws. All section references are to the  
14 Business and Professions Code unless otherwise indicated.

### 15 STATUTORY PROVISIONS

16 4. Section 4301 of the Code states:

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

20 . . .

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

24 . . .

25 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous  
26 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to  
27 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
28 to the extent that the use impairs the ability of the person to conduct with safety to the public the

1 practice authorized by the license.

2 . . .

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

5 5. Section 4059 of the Code states, in pertinent part, that a person may not furnish any  
6 dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,  
7 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

8 6. Section 4060 of the Code states, in pertinent part, that no person shall possess any  
9 controlled substance, except that furnished to a person upon the prescription of a physician,  
10 dentist, podiatrist, optometrist, veterinarian, or other specifically enumerated licensed health care  
11 provider.

12 7. Section 492 of the Code states, in pertinent part:

13 "Notwithstanding any other provision of law, successful completion of any diversion  
14 program under the Penal Code, or successful completion of an alcohol and drug problem  
15 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of  
16 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2  
17 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that  
18 division, from taking disciplinary action against a licensee or from denying a license for  
19 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a  
20 record pertaining to an arrest."

21 8. Health and Safety Code section 11170 states:

22 No person shall prescribe, administer, or furnish a controlled substance for  
23 himself.

24 9. Health and Safety Code section 11173 states, in pertinent part:

25 (a) No person shall obtain or attempt to obtain controlled substances, or  
26 procure or attempt to procure the administration of or prescription for controlled  
substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the  
concealment of a material fact.

27 //

28 //

1           10.       Health and Safety Code section 11350 states:

2                   (a) Except as otherwise provided in this division, every person who  
3 possesses (1) any controlled substance specified in subdivision (b), (c), (e), or  
4 paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or  
5 (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of  
6 Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled  
7 substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the  
8 written prescription of a physician, dentist, podiatrist, or veterinarian licensed to  
9 practice in this state, shall be punished by imprisonment in a county jail for not more  
10 than one year, except that such person shall instead be punished pursuant to  
11 subdivision (h) of Section 1170 of the Penal Code if that person has one or more prior  
12 convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph  
13 (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring  
14 registration pursuant to subdivision (c) of Section 290 of the Penal Code.

15                   (b) Except as otherwise provided in this division, whenever a person who  
16 possesses any of the controlled substances specified in subdivision (a), the judge may,  
17 in addition to any punishment provided for pursuant to subdivision (a), assess against  
18 that person a fine not to exceed seventy dollars (\$70) with proceeds of this fine to be  
19 used in accordance with Section 1463.23 of the Penal Code. The court shall, however,  
20 take into consideration the defendant's ability to pay, and no defendant shall be denied  
21 probation because of his or her inability to pay the fine permitted under this  
22 subdivision.

23                   (c) Except in unusual cases in which it would not serve the interest of  
24 justice to do so, whenever a court grants probation pursuant to a felony conviction  
25 under this section, in addition to any other conditions of probation which may be  
26 imposed, the following conditions of probation shall be ordered:

27                           (1) For a first offense under this section, a fine of at least one thousand  
28 dollars (\$1,000) or community service.

                          (2) For a second or subsequent offense under this section, a fine of at least  
two thousand dollars (\$2,000) or community service.

                          (3) If a defendant does not have the ability to pay the minimum fines  
specified in paragraphs (1) and (2), community service shall be ordered in lieu of the  
fine.

21   **COST RECOVERY**

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

26   **CONTROLLED SUBSTANCES**

27           12.       “Ambien,” is a brand of zolpidem tartrate, and a Schedule IV controlled substance as  
28 designated by Health and Safety Code section 11057(d)(32).

1 13. "Codeine" is a Schedule II, III and IV controlled substance and Codeine/Tylenol #3  
2 and Codeine/Tylenol #4 is a Schedule III controlled substance as designated by Health and Safety  
3 Code section 11056, subdivision (e)(2).

4 14. "Hydrocodone" is a Schedule II controlled substance and Hydrocodone/ APAP has  
5 been rescheduled by the Drug Enforcement Administration from schedule III to schedule II  
6 controlled substance by the Controlled Substances Act (21 CFR Part 1308 § 1308.12; 21 U.S.C.  
7 812 (c)) and is a schedule II controlled substance as designated by Health and Safety Code section  
8 11055, subdivision (b)(1)(I).

9 15. "Lomotil," a brand of diphenoxylate hydrochloride with atropine sulfate, is a  
10 Schedule II controlled substance as designated by Health and Safety Code section 11055(c)(7).

11 **STATEMENT OF FACTS**

12 16. On or about December 18, 2014, Respondent was arrested by a Truckee Police  
13 Officer at her place of work at the Truckee, California CVS Pharmacy for violation of Penal Code  
14 section 487 (grand theft) after Respondent admitted that she had been stealing medications from  
15 the Pollock Pines and Tahoe City CVS pharmacies, while on duty as a pharmacist, in order to  
16 self- medicate herself, as follows: 560 10/325 hydrocodone pills, 100 5/325 hydrocodone pills,  
17 100 7.5/325 hydrocodone pills, 50 Zolpidem – 10mg ("Ambien"), 25 Lomotil, 400 Tylenol #4  
18 (codeine), and 100 Tylenol #3 (codeine). Respondent also admitted that on or about December  
19 13, 2014, that she stole six (6) Hydrocodone and fifteen (15) Ambien from the Truckee CVS  
20 Pharmacy and put them in her purse and then took them home.

21 **FIRST CAUSE FOR DISCIPLINE**

22 (Unprofessional Conduct - Moral Turpitude, Dishonesty, Fraud, Deceit)

23 17. Respondent is subject to disciplinary action under section 4301, subsections (f) and  
24 (j), on the grounds of unprofessional conduct, in that she stole controlled substances from her  
25 employer, for her own self-administration, while on duty as a licensed pharmacist, as alleged in  
26 paragraph 16, and in violation of Health and Safety Code section 11173.

27 **SECOND CAUSE FOR DISCIPLINE**

28 (Unprofessional Conduct – Possession of Controlled Substances)

1 18. Respondent is subject to disciplinary action under section 4301, subsection (j) and  
2 section 4060, on the grounds of unprofessional conduct, in that Respondent possessed controlled  
3 substances, without a valid prescription, as alleged in paragraph 16, and in violation of Health and  
4 Safety Code section 11350, subsection (a).

5 **THIRD CAUSE FOR DISCIPLINE**

6 (Unprofessional Conduct – Self-Administration of Controlled Substances)

7 19. Respondent is subject to disciplinary action under section 4301, subsections (h) and  
8 (j) and section 4059, in that Respondent furnished controlled substances to herself in order to self-  
9 medicate herself, without a valid prescription, as alleged in paragraph 16 and in violation of  
10 Health and Safety Code section 11170.

11 **DISCIPLINARY CONSIDERATIONS**

12 20. On or about October 5, 2004, Respondent surrendered her license to the Board  
13 pursuant to Penal Code section 23, in the criminal proceeding entitled *People v. Kristin Rolfe*  
14 *Lease Oberhaus* (El Dorado Superior Court Case No. S04SRF0309), and the license was  
15 suspended by the Board for one year. On or about June 3, 2005, in the criminal case entitled  
16 *People v. Kristin Rolfe Lease Oberhaus* (El Dorado Superior Court Case No. S04SRF0309),  
17 Respondent was convicted by her plea of guilty to violating Penal Code section 487(a) (grand  
18 theft by embezzlement), a misdemeanor.

19 21. On or about November 10, 2005, in a prior disciplinary action entitled *In the Matter*  
20 *of the Accusation Against Kristin Lease Overhaus, aka Kristin Rolfe Lease Oberhaus* before the  
21 Board of Pharmacy, in Case Number 2815, Respondent's license was revoked, with revocation  
22 stayed, one year suspension, and placed on probation for five years, with certain terms and  
23 conditions, including, but not limited to: continuous supervised practice, no access to controlled  
24 substances, random drug screening, abstinence from drug and alcohol use, and completion of a  
25 drug rehabilitation program - the Pharmacists Recovery Program (PRP). That decision is now  
26 final and is incorporated by reference as if fully set forth herein.

27 22. On or about February 10, 2015, in this pending disciplinary action entitled *In the*  
28 *Matter of the Ex Parte Interim Suspension Order Against Kristin Lease-Shaw*, before the Board

1 of Pharmacy, in Case Number 5379, Respondent's license was suspended and remains suspended  
2 pursuant to Business and Professions Code section 494. That decision is incorporated by reference  
3 as if fully set forth herein.

4 **PRAYER**

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

- 7 1. Revoking or suspending Pharmacist License Number RPH 52971, issued to Kristin  
8 Lease-Shaw;
- 9 2. Ordering Kristin Lease-Shaw to pay the Board of Pharmacy the reasonable costs of  
10 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
11 125.3;
- 12 3. Taking such other and further action as deemed necessary and proper.

13  
14  
15 DATED: February 25, 2015

*Jeffrey M. Phillips*  
*for*  
VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

**JEFFREY M. PHILLIPS**  
Deputy Attorney General

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