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

In the Matter of the Accusation and Petition to
Revoke Probation Against:

Case No. 5736

**BRETT R. BARTLETT,
AKA BRETT ROLAND BARTLETT
Northern Home Medical
930 Idaho Maryland Road
Grass Valley, CA 95945**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

**Designated Representative Certificate No.
EXC 17211**

Respondent.

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FINDINGS OF FACT

1. On or about February 29, 2016, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the California State Board of Pharmacy, filed Accusation/Petition to Revoke Probation No. 5736 against Brett R. Bartlett, also known as (aka) Brett Roland Bartlett (Respondent) before the Board of Pharmacy, Department of Consumer Affairs (Board). (Accusation/Petition to Revoke Probation attached as Exhibit A.)

2. On or about October 9, 2003, the Board issued Designated Representative Certificate No. EXC 17211 to Respondent. The Designated Representative Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 5736, and expired on October 1, 2015, and was canceled on January 25, 2016.

3. Pursuant to the Final Decision After Non-Adoption of Proposed Decision in the disciplinary action entitled "In the Matter of the Accusation Against: Brett Roland Bartlett," Case No. 4779, the Board revoked Respondent's designated representative certificate effective April 10, 2015. However, the revocation was stayed and Respondent's designated representative certificate was placed on probation for five (5) years with certain terms and conditions.

4. On or about March 11, 2016, Respondent was served by Certified and First Class Mail copies of the Accusation/Petition to Revoke Probation No. 5736, Statement to Respondent,

1 Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections
2 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business
3 and Professions Code section 4100, is required to be reported and maintained with the Board.

4 Respondent's address of record was and is:

5 Northern Home Medical
6 930 Idaho Maryland Road
7 Grass Valley, CA 95945.

8 5. Service of the Accusation/Petition to Revoke Probation was effective as a matter of
9 law under the provisions of Government Code section 11505, subdivision (c) and/or Business &
10 Professions Code section 124.

11 6. On or about April 5, 2016, the aforementioned documents were returned by the U.S.
12 Postal Service marked "Refused."

13 7. Government Code section 11506(c) states, in pertinent part:

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

19 8. Respondent failed to file a Notice of Defense within 15 days after service upon him
20 of the Accusation/Petition to Revoke Probation, and therefore waived his right to a hearing on the
21 merits of Accusation/Petition to Revoke Probation No. 5736.

22 9. California Government Code section 11520(a) states, in pertinent part:

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

27 10. Pursuant to its authority under Government Code section 11520, the Board finds
28 Respondent is in default. The Board will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
taking official notice of all the investigatory reports, exhibits and statements contained therein on
file at the Board offices regarding the allegations contained in Accusation/Petition to Revoke
Probation No. 5736, finds that the charges and allegations in Accusation/Petition to Revoke

1 Probation No. 5736, are separately and severally, found to be true and correct by clear and
2 convincing evidence.

3 11. Taking official notice of its own internal records, pursuant to Business and
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
5 and Enforcement is \$1,670.00 as of April 7, 2016.

6 **DETERMINATION OF ISSUES**

7 1. Based on the foregoing findings of fact, Respondent Brett R. Bartlett aka Brett
8 Roland Bartlett has subjected his Designated Representative Certificate No. EXC 17211 to
9 discipline.

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

11 3. The Board of Pharmacy is authorized to revoke Respondent's Designated
12 Representative Certificate based upon the following violations alleged in the Accusation/Petition
13 to Revoke Probation which are supported by the evidence contained in the Default Decision
14 Evidence Packet in this case.:

15 a. Code section 4301(D), in that Respondent was convicted of two substantially related
16 criminal convictions.

17 i. On or about February 18, 2015, in Nevada County Superior Court case number
18 F14-000467, Respondent was convicted of petty theft, a misdemeanor.

19 ii. On or about March 19, 2015, in Nevada County Superior Court case number
20 F15-000056, Respondent was convicted of burglary, a felony. Respondent was observed on a
21 surveillance tape breaking into the home of an elderly couple who had passed away several weeks
22 previously. Respondent's wife recognized him on the tape, and stated that Respondent has a
23 prescription drug addiction.

24 b. Code section 4301(f), acts involving moral turpitude, dishonesty, fraud, deceit, or
25 corruption as set forth in paragraph a., above.

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1 c. Violation of Probation Terms, condition 1, in that Respondent failed to obey all laws
2 as set forth in paragraph a., above. Further, Respondent failed to report his convictions within 72
3 hours of their occurrences.

4 d. Violation of Probation Terms, condition 2, in that Respondent has failed to submit
5 any quarterly written reports to the Board.

6 e. Violation of Probation Terms, condition 3, in that Respondent failed to report in
7 person to his scheduled interview with the Board's representative scheduled for April 21, 2015.

8 f. Violation of Probation Terms, condition 4, failure to cooperate with Board staff.
9 Respondent failed to cooperate with the Board's monitoring and investigation of his compliance
10 with the terms and conditions of probation as set forth in paragraphs c-e, and g- j, herein.

11 g. Violation of Probation Terms, condition , in that Respondent has failed to make any
12 payments of the ordered \$1,760.00 cost recovery in the underlying matter.

13 h. Violation of Probation Terms, condition 8, in that Respondent has failed to maintain
14 an active, current license, Respondent's license expired on October 1, 2015, and was cancelled on
15 January 25, 2016.

16 i. Violation of Probation Terms, condition 14, in that Respondent has failed to submit to
17 the Board documentation confirming attendance at a substance abuse recovery relapse prevention
18 and support group.

19 j. Violation of Probation Terms, condition 16, in that Respondent has failed to enroll
20 and participate in the Board's random drug screening program.

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ORDER

IT IS SO ORDERED that Designated Representative Certificate No. EXC 17211, heretofore issued to Respondent Brett R. Bartlett aka Brett Roland Bartlett, is revoked.

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

This Decision shall become effective at 5:00 p.m. on June 9, 2016.

It is so ORDERED on May 10, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.

Board President

12213867.DOC
DOJ Matter ID:SA2016100351

Attachment:
Exhibit A: Accusation/Petition to Revoke Probation

Exhibit A

Accusation/Petition to Revoke Probation

(BRETT R. BARTLETT)

Exhibit A

Accusation/Petition to Revoke Probation

(BRETT R. BARTLETT)

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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 Accusation and Petition to
12 Revoke Probation Against:

Case No. 5736

13 **BRETT R. BARTLETT,**
14 **aka BRETT ROLAND BARTLETT**
15 **Northern Home Medical**
16 **930 Idaho Maryland Road**
17 **Grass Valley, CA 95945**

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

18 **Designated Representative Certificate No.**
19 **EXC 17211**

20 Respondent.

21 Complainant alleges:

22 **PARTIES**

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

26 2. On or about October 9, 2003, the Board issued Designated Representative Certificate
27 Number EXC 17211 to Brett R. Bartlett, also known as Brett Roland Bartlett ("Respondent").
28 The designated representative certificate expired on October 1, 2015, and was canceled on
January 25, 2016.

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1 3. Pursuant to the Final Decision After Non-Adoption of Proposed Decision in the
2 disciplinary action entitled "In the Matter of the Accusation Against: Brett Roland Bartlett," Case
3 No. 4779, the Board revoked Respondent's designated representative certificate effective April
4 10, 2015. However, the revocation was stayed and Respondent's designated representative
5 certificate was placed on probation for five (5) years with certain terms and conditions.

6 **JURISDICTION AND STATUTORY PROVISIONS FOR ACCUSATION**

7 4. This Accusation and Petition to Revoke Probation is brought before the Board under
8 the authority of the following laws. All section references are to the Business and Professions
9 Code unless otherwise indicated.

10 5. Section 4300 states, in pertinent part:

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

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

14 (1) Suspending judgment.

15 (2) Placing him or her upon probation.

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

18 (4) Revoking his or her license.

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

20 6. Section 4300.1 states:

21 The expiration, cancellation, forfeiture, or suspension of a board-issued
22 license by operation of law or by order or decision of the board or a court of law, the
23 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
24 investigation of, or action or disciplinary proceeding against, the licensee or to render
a decision suspending or revoking the license.

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1 7. Section 4301 states, in pertinent part:

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

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

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

COST RECOVERY

8. Section 125.3 provides, in pertinent part, that a 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.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Criminal Convictions)

3 9. Respondent is subject to disciplinary action for unprofessional conduct under section
4 4301, subdivision (1), in that Respondent has been convicted of crimes which are substantially
5 related to the qualifications, functions, and duties of a designated representative, as follows:

6 a. On or about February 18, 2015, in the criminal proceeding entitled *People vs. Brett R.*
7 *Bartlett* (Nevada County Super. Ct., Case No. F14-000476), Respondent was convicted by the
8 Court on his plea of nolo contendere of violating Penal Code section 484, subdivision (a) (petty
9 theft), a misdemeanor. The incident upon which the conviction is based occurred on or about
10 October 15, 2014, in the City of Grass Valley.

11 b. On or about March 19, 2015, in the criminal proceeding entitled *People vs. Brett*
12 *Roland Bartlett* (Nevada County Super. Ct., Case No. F15-000056), Respondent was convicted
13 by the Court on his plea of nolo contendere of violating Penal Code section 459 (second degree
14 burglary), a felony. On or about April 13, 2015, the imposition of Respondent's sentence was
15 suspended and Respondent was placed on supervised probation for three (3) years. Respondent
16 was also ordered to serve 180 days in jail. The circumstances of the crime are as follows: On or
17 about February 24, 2015, Sergeant J. with the Nevada County Sheriff's Department responded to
18 a possible burglary at a home located on Lake Wildwood Drive in Penn Valley. The front door
19 window had been broken out to gain access. The residence was reportedly vacant as the elderly
20 couple who owned the home had passed away several weeks previously. Sergeant T. contacted
21 the couple's daughter, who stated that a video surveillance camera had been set up inside the
22 residence. On or about February 25, 2015, Sergeant T. received an email from the couple's son,
23 informing him that they had captured the entire burglary on video. The couple's son sent the
24 Sheriff's Department a video of the suspect inside the residence. On or about March 3, 2015,
25 Sergeant J. and other law enforcement personnel served a search warrant at Respondent's home.
26 Sergeant J. spoke with Respondent's wife, K., who was shown the video footage from the
27 couple's residence. K. immediately recognized Respondent and agreed that he was the person
28 depicted in the video.

1 **SECOND CAUSE FOR DISCIPLINE**

2 (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

3 10. Respondent is subject to disciplinary action for unprofessional conduct under section
4 4301, subdivision (f), in that Respondent committed acts involving moral turpitude, dishonesty,
5 fraud, deceit, or corruption, as set forth in paragraph 9 above.

6 **PETITION TO REVOKE PROBATION**

7 11. Condition 12 of Respondent's probation states:

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

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

22 12. Grounds exist to revoke Respondent's probation and re-impose the order of
23 revocation of his designated representative certificate in that he has violated the terms and
24 conditions of his probation, as follows:

25 **FIRST CAUSE TO REVOKE PROBATION**

26 (Failure to Obey all Laws)

27 13. Condition 1 of Respondent's probation states, in pertinent part, that Respondent shall
28 obey all state and federal laws and regulations. Respondent shall report any of the following
occurrences to the Board, in writing, within seventy-two (72) hours of such occurrence:

- 29 a. An arrest or issuance of a criminal complaint for violation of any state or federal law;
- 30 b. A plea of guilty or nolo contendere in any state or federal criminal proceeding to any
31 criminal complaint, information or indictment;
- 32 c. A conviction of any crime.

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1 14. Respondent's probation is subject to revocation in that he failed to obey all state laws,
2 as set forth in paragraph 9 above. Further, Respondent failed to report to the Board his
3 convictions of February 18, 2015 and March 19, 2015, within 72 hours of each occurrence.

4 **SECOND CAUSE TO REVOKE PROBATION**

5 **(Failure to Report to the Board)**

6 15. Condition 2 of Respondent's probation states, in pertinent part, that Respondent shall
7 report to the Board quarterly, on a schedule as directed by the Board or its designee. The report
8 shall be made either in person or in writing, as directed. Among other requirements, respondent
9 shall state in each report under penalty of perjury whether there has been compliance with all the
10 terms and conditions of probation. Failure to submit timely reports in a form as directed shall be
11 considered a violation of probation.

12 16. Respondent's probation is subject to revocation in that he failed to submit any written
13 quarterly reports to the Board.

14 **THIRD CAUSE TO REVOKE PROBATION**

15 **(Failure to Interview with the Board)**

16 17. Condition 3 of Respondent's probation states that upon receipt of reasonable prior
17 notice, Respondent shall appear in person for interviews with the Board or its designee, upon
18 request at such intervals and locations as are determined by the Board or its designee. Failure to
19 appear for any scheduled interview without prior notification to Board staff, or failure to appear
20 for two (2) or more scheduled interviews with the Board or its designee during the period of
21 probation, shall be considered a violation of probation.

22 18. Respondent's probation is subject to revocation in that he failed to report in person at
23 his interview with the Board's representative(s) scheduled for April 21, 2015.

24 **FOURTH CAUSE TO REVOKE PROBATION**

25 **(Failure to Cooperate with Board Staff)**

26 19. Condition 4 of Respondent's probation states that Respondent shall cooperate with
27 the Board's inspection program and with the Board's monitoring and investigation of

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1 Respondent's compliance with the terms and conditions of his probation. Failure to cooperate
2 shall be considered a violation of probation.

3 20. Respondent's probation is subject to revocation in that Respondent failed to cooperate
4 with the Board's monitoring and investigation of his compliance with the terms and conditions of
5 his probation, as set forth in paragraphs 13 to 18 above and paragraphs 21 to 28 below.

6 **FIFTH CAUSE TO REVOKE PROBATION**

7 **(Failure to Reimburse Board Costs)**

8 21. Condition 6 of Respondent's probation states, in pertinent part, that as a condition
9 precedent to successful completion of probation, Respondent shall pay to the Board its costs of
10 investigation and prosecution in the amount of \$1,760. Respondent shall make said payments
11 over the term of probation in accordance with a reasonable payment plan approved by the Board
12 or its designee. There shall be no deviation from this schedule absent prior written approval by
13 the Board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a
14 violation of probation.

15 22. Respondent's probation is subject to revocation in that Respondent has failed to make
16 any cost recovery (reimbursement) payments to the Board.

17 **SIXTH CAUSE TO REVOKE PROBATION**

18 **(Failure to Maintain Active, Current License)**

19 23. Condition 8 of Respondent's probation states that Respondent shall, at all times while
20 on probation, maintain an active, current designated representative license with the Board,
21 including any period during which suspension or probation is tolled. Failure to maintain an
22 active, current license shall be considered a violation of probation. If Respondent's designated
23 representative license expires or is canceled by operation of law or otherwise at any time during
24 the period of probation, including any extensions thereof due to tolling or otherwise, upon
25 renewal or reapplication Respondent's license shall be subject to all terms and conditions of this
26 probation not previously satisfied.

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1 24. Respondent's probation is subject to revocation in that Respondent allowed his
2 designated representative certificate to lapse on October 1, 2015, as set forth in paragraph 2
3 above.

4 **SEVENTH CAUSE TO REVOKE PROBATION**

5 **(Failure to Attend Substance Abuse Recovery Relapse Prevention and Support Groups)**

6 25. Condition 14 of Respondent's probation states that within thirty (30) days of the
7 effective date of the decision, Respondent shall begin regular attendance at a recognized and
8 established substance abuse recovery support group in California (e.g., Alcoholics Anonymous,
9 Narcotics Anonymous, etc.) which has been approved by the Board or its designee. Respondent
10 must attend at least one group meeting per week unless otherwise directed by the Board or its
11 designee. Respondent shall continue regular attendance and submit signed and dated
12 documentation confirming attendance with each quarterly report for the duration of probation.
13 Failure to attend or submit documentation thereof shall be considered a violation of probation.

14 26. Respondent's probation is subject to revocation in that Respondent failed to submit to
15 the Board signed and dated documentation confirming his attendance at a recognized and
16 established substance abuse recovery support group.

17 **EIGHTH CAUSE TO REVOKE PROBATION**

18 **(Failure to Participate in Random Drug Screening)**

19 27. Condition 16 of Respondent's probation states, in pertinent part, that Respondent at
20 his own expense shall participate in random testing, including but not limited to, biological fluid
21 testing (urine, blood), breathalyzer, hair follicle testing, or other drug screening program as
22 directed by the Board or its designee. Respondent may be required to participate in testing for the
23 entire probation period and the frequency of testing will be determined by the Board or its
24 designee. At all times, Respondent shall fully cooperate with the Board or its designee, and shall,
25 when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics,
26 dangerous drugs or other controlled substances as the Board or its designee may direct. Failure to
27 timely submit to testing as directed shall be considered a violation of probation.

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1 28. Respondent's probation is subject to revocation, as follows: On or about March 12,
2 2015, the Board's designee sent Respondent a letter, notifying him that he was required to enroll
3 and participate in random drug screening with FirstLab for the duration of his probation.
4 Respondent was also advised that his enrollment must be completed no later than April 24, 2015.
5 Respondent failed to enroll and participate in the random drug screening program as directed by
6 the Board.

7 **PRAYER**

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

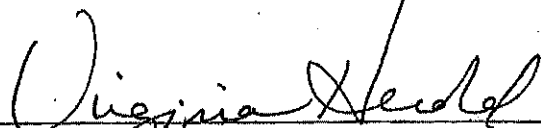
10 1. Revoking or suspending Designated Representative Certificate Number EXC 17211,
11 issued to Brett R. Bartlett, also known as Brett Roland Bartlett;

12 2. Revoking probation and re-imposing the order of revocation of Designated
13 Representative Certificate Number EXC 17211, issued to Brett R. Bartlett, also known as Brett
14 Roland Bartlett;

15 3. Ordering Brett R. Bartlett, also known as Brett Roland Bartlett, to pay the Board of
16 Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to
17 Business and Professions Code section 125.3; and

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

19
20 DATED: 2/29/16


21 VIRGINIA HEROLD
22 Executive Officer
23 Board of Pharmacy
24 Department of Consumer Affairs
25 State of California
26 Complainant

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