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

12 In the Matter of the Accusation Against:
13 **KYLE BERTRAND ROOTSAERT**
14 **16834 Train Station Court**
Lathrop, CA 95330
15 **Original Pharmacist License No. RPH 49390**
16 Respondent.

Case No. 4806

A C C U S A T I O N

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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 April 1, 1997, the Board of Pharmacy issued Original Pharmacist License
23 Number RPH 49390 to Kyle Bertrand Rootsart (Respondent). The Original Pharmacist License
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 June 30, 2014, unless renewed.

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1 **JURISDICTION**

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

5 4. Section 4300 of the Code states, in pertinent part:

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

7 "...

8 (c) The board may refuse a license to any applicant guilty of unprofessional conduct. . . ."

9 **STATUTORY PROVISIONS**

10 5. Section 4300.1 of the Code states:

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

16 6. Section 4301 of the Code states, in pertinent part:

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 "(n) The revocation, suspension, or other discipline by another state of a license to practice
22 pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter.

23 **COST RECOVERY**

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

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1 **CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct—Discipline by Another State)**

3 10. Respondent is subject to disciplinary action under section 4301(n) of the Code in that
4 Respondent's Utah Pharmacist License has been disciplined by the Utah Division of Occupational
5 and Professional Licensing. The circumstances are as follows:

6 11. On or about March 29, 2012, Respondent, through counsel, entered into a Stipulation
7 and Order for the Division of Occupational and Professional Licensing, Department of
8 Commerce, State of Utah ("Division"), case no. DOPL 2009-219. Among the terms of the
9 settlement, Respondent's license was suspended, stayed, and placed on probation for five years,
10 and Respondent was required to pay an administrative fine of \$12,000.00. Within the stipulation,
11 Respondent admitted that his conduct (as described in the stipulation) would constitute
12 unprofessional conduct in that Respondent issued a prescription drug based on an online
13 questionnaire, aided in the unlicensed practice of medicine, employed an unlicensed pharmacy
14 technician and allowed an unauthorized person into the pharmacy, was grossly negligent in the
15 practice of pharmacy, and unlawfully dispensed a controlled substance.

16 **PRAYER**

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

19 1. Revoking or suspending Original Pharmacist License Number RPH 49390, issued to
20 Kyle Bertrand Rootsart.;

21 2. Ordering Kyle Bertrand Rootsart to pay the Board of Pharmacy the reasonable costs
22 of the investigation and enforcement of this case, pursuant to Business and Professions Code
23 section 125.3; and

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

DATED: 11/4/13



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

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