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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
24 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.

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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 (I), 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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