| In the Matter of the Accusation and Petition to<br>Revoke Probation Against:       Case No. 5736         BRETT R. BARTLETT,<br>aka BRETT ROLAND BARTLETT<br>Northern Home Medical<br>930 Idaho Maryland Road<br>Grass Valley, CA 95945       Case No. 5736         Designated Representative Certificate No.<br>EXC 17211       Respondent.         Respondent.       Complainant alleges:         D       PARTIES         1.       Virginia Herold ("Complainant") brings this Accusation and Petition to Revoke         Probation solely in her official capacity as the Executive Officer of the Board of Pharmacy         ("Board"), Department of Consumer Affairs.         2.       On or about October 9, 2003, the Board issued Designated Representative Certificate         Number EXC 17211 to Brett R. Bartlett, also known as Brett Roland Bartlett ("Respondent").         The designated representative certificate expired on October 1, 2015, and was canceled on         January 25, 2016. |  |   |  |
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| <ul> <li>PARTIES</li> <li>1. Virginia Herold ("Complainant") brings this Accusation and Petition to Revoke</li> <li>Probation solely in her official capacity as the Executive Officer of the Board of Pharmacy</li> <li>("Board"), Department of Consumer Affairs.</li> <li>2. On or about October 9, 2003, the Board issued Designated Representative Certificat</li> <li>Number EXC 17211 to Brett R. Bartlett, also known as Brett Roland Bartlett ("Respondent").</li> <li>The designated representative certificate expired on October 1, 2015, and was canceled on</li> <li>January 25, 2016.</li> <li>///</li> </ul>   | <ul> <li>In the Matter of the Accusation and Petition to<br/>Revoke Probation Against:</li> <li>BRETT R. BARTLETT,</li> <li>aka BRETT ROLAND BARTLETT<br/>Northern Home Medical</li> <li>930 Idaho Maryland Road<br/>Grass Valley, CA 95945</li> <li>Designated Representative Certificate No.<br/>EXC 17211</li> </ul>  | Case No. 5736<br>ACCUSATION AND PETITION TO<br>REVOKE PROBATION |  |
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|  | January 25, 2016.  |   |  |
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| 1  | 3. Pursuant to the Final Decision After Non-Adoption of Proposed Decision in the   |  |  |
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| 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.<br>(4) Revoking his or her license.  |  |  |
| 18 | (5) Taking any other action in relation to disciplining him or her as the  |  |  |
| 19 | board in its discretion may deem proper  |  |  |
| 20 | 6. Section 4300.1 states:  |  |  |
| 21 | 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            |  |  |
| 22 | placement of a license on a retired status, or the voluntary surrender of a license by a license shall not deprive the board of jurisdiction to commence or proceed with any |  |  |
| 23 | investigation of, or action or disciplinary proceeding against, the licensee or to render<br>a decision suspending or revoking the license.                                  |  |  |
| 24 | a decision suspending of revoking the neense.  |  |  |
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|    | (BRETT R. BARTLETT) ACCUSATION AND PETITION TO REVOKE PROBATION  |  |  |

7. Section 4301 states, in pertinent part:

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

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

(1) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of 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 20law judge to direct a licentiate found to have committed a violation or violations of the licensing 21 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the 22 case. 23 111 24 111 25 26 111 27 111 28 /// 3

(BRETT R. BARTLETT) ACCUSATION AND PETITION TO REVOKE PROBATION

### FIRST CAUSE FOR DISCIPLINE

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## (Criminal Convictions)

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

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

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

| 1  | SECOND CAUSE FOR DISCIPLINE  |
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| 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<br>automatically be extended until all terms and conditions have been satisfied or the<br>Board has taken other extended any provide to the following the satisfied or the |
| 10 | 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  |
| 11 | stayed.  |
| 12 | 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             |
| 13 | required for those provisions stating that a violation thereof may lead to automatic<br>termination of the stay and/or revocation of the license. If a petition to revoke  |
| 14 | probation or an accusation is filed against respondent during probation, the Board<br>shall have continuing jurisdiction, and the period of probation shall be automatically   |
| 15 | extended, until the petition to revoke probation or accusation is heard and decided.   |
| 16 | 12. Grounds exist to revoke Respondent's probation and re-impose the order of  |
| 17 | revocation of his designated representative certificate in that he has violated the terms and  |
| 18 | conditions of his probation, as follows:   |
| 19 | FIRST CAUSE TO REVOKE PROBATION  |
| 20 | (Failure to Obey all Laws)   |
| 21 | 13. Condition 1 of Respondent's probation states, in pertinent part, that Respondent shall   |
| 22 | obey all state and federal laws and regulations. Respondent shall report any of the following  |
| 23 | occurrences to the Board, in writing, within seventy-two (72) hours of such occurrence:  |
| 24 | a. An arrest or issuance of a criminal complaint for violation of any state or federal law;  |
| 25 | b. A plea of guilty or nolo contendere in any state or federal criminal proceeding to any  |
| 26 | criminal complaint, information or indictment;   |
| 27 | c. A conviction of any crime.  |
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|    | (BRETT R. BARTLETT) ACCUSATION AND PETITION TO REVOKE PROBATION  |

| 1  | 14. Respondent's probation is subject to revocation in that he failed to obey all state laws,      |
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| 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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|    | 6  |
|    | (BRETT R. BARTLETT) ACCUSATION AND PETITION TO REVOKE PROBATION                                    |

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

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

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# FIFTH CAUSE TO REVOKE PROBATION

## (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.

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# SIXTH CAUSE TO REVOKE PROBATION

## (Failure to Maintain Active, Current License)

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

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

#### SEVENTH CAUSE TO REVOKE PROBATION

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

25. Condition 14 of Respondent's probation states that within thirty (30) days of the 6 7 effective date of the decision, Respondent shall begin regular attendance at a recognized and established substance abuse recovery support group in California (e.g., Alcoholics Anonymous, 8 9 Narcotics Anonymous, etc.) which has 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 10 designee. Respondent shall continue regular attendance and submit signed and dated 11 12 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. 13

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.

## EIGHTH CAUSE TO REVOKE PROBATION

### (Failure to Participate in Random Drug Screening)

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

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| 1        | 28. Respondent's probation is subject to revocation, as follows: On or about March 12,            |  |
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| 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<br>20 | DATED: 2/29/16 (inerina Herde   |  |
| 20       | VIRGINIA HEROLD<br>Executive Officer  |  |
| 22       | Board of Pharmacy<br>Department of Consumer Affairs   |  |
| 23       | State of California<br>Complainant  |  |
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|          | (BRETT R. BARTLETT) ACCUSATION AND PETITION TO REVOKE PROBATION                                   |  |