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

In the Matter of the Accusation Against:

Case No. 3178

THOMAS DIBENEDETTO 4224 Coronado Avenue San Diego, CA 92107

Pharmacist License No. RPH 46169

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary 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 May 27, 2009

It is so ORDERED on April 27, 2009

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

By

KENNETH H. SCHELL Board President

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1	EDMUND G. BROWN JR., Attorney General	Y
2	of the State of California LINDA K. SCHNEIDER	
3	Supervising Deputy Attorney General DAVID E. HAUSFELD, State Bar No. 110639	
4	Deputy Attorney General	
5	110 West "A" Street, Suite 1100 San Diego, CA 92101	
6	P.O. Box 85266	
	San Diego, CA 92186-5266 Telephone: (619) 645-2025	
7	Facsimile: (619) 645-2061	
. 8	Attorneys for Complainant	
9	BEFORE THE BOARD OF PHARMACY	
10	DEPARTMENT OF CON STATE OF CAL	
11		
12	In the Matter of the Accusation Against:	Case No. 3178
13	THOMAS DIBENEDETTO 4224 Coronado Avenue	STIPULATED SETTLEMENT AND
14	San Diego, CA 92107	DISCIPLINARY ORDER
15	Original Pharmacist License No. RPH 46169	
16	Respondent.	
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18	IT IS HEREBY STIPULATED AND AGREED by and between the parties to the	
19	above-entitled proceedings that the following matters are true:	
20	PARTIES	
21	1. Virginia Herold (Complainant) is the Executive Officer of the Board of	
22	Pharmacy. She brought this action solely in her official capacity and is represented in this matter	
23	by Edmund G. Brown Jr., Attorney General of the State of California, by David E. Hausfeld,	
24	Deputy Attorney General.	
25	2. Respondent Thomas DiBenedetto is represented in this proceeding by	
26	attorney Michael Lipman, whose address is 501 West Broadway, Suite 400, San Diego, CA	
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3. 1 On or about April 26, 1993, the Board of Pharmacy issued Original Pharmacist License No. RPH 46169 to Thomas DiBenedetto (Respondent). The Original 2 3 Pharmacist License was in full force and effect at all times relevant to the charges brought in 4 Accusation Case No. 3178 and will expire on August 31, 2010, unless renewed. 5 **JURISDICTION** 4. 6 Accusation No. 3178 was filed before the Board of Pharmacy (Board), 7 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation 8 and all other statutorily required documents were properly served on Respondent on July 15, 9 2008. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of 10 Accusation Case No. 3178 is attached as Exhibit A and incorporated herein by reference. 11 **ADVISEMENT AND WAIVERS** 12 5. Respondent has carefully read, fully discussed with counsel, and 13 understands the charges and allegations in Accusation Case No. 3178. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated 14 15 Settlement and Disciplinary Order. 16 6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and 17 18 cross-examine the witnesses against him; the right to present evidence and to testify on his own 19 behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the 20 production of documents; the right to reconsideration and court review of an adverse decision; 21 and all other rights accorded by the California Administrative Procedure Act and other applicable 22 laws. 23 7. Respondent voluntarily, knowingly, and intelligently waives and gives up 24 each and every right set forth above. 25 **CULPABILITY** 26 8. Respondent admits the truth of each and every charge and allegation in 27 Accusation Case No. 3178. 28 ///

9. Respondent agrees that his Original Pharmacist License is subject to
 discipline and he agrees to be bound by the Board of Pharmacy (Board)'s imposition of discipline
 as set forth in the Disciplinary Order below.

CONTINGENCY

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5 10. This stipulation shall be subject to approval by the Board of Pharmacy. 6 Respondent understands and agrees that counsel for Complainant and the staff of the Board of 7 Pharmacy may communicate directly with the Board regarding this stipulation and settlement, 8 without notice to or participation by Respondent or his counsel. By signing the stipulation, 9 Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt 10 11 this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action 12 13 between the parties, and the Board shall not be disqualified from further action by having 14 considered this matter.

15 11. The parties understand and agree that facsimile copies of this Stipulated
16 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
17 force and effect as the originals.

18 12. In consideration of the foregoing admissions and stipulations, the parties
19 agree that the Board may, without further notice or formal proceeding, issue and enter the
20 following Disciplinary Order:

21DISCIPLINARY ORDER22IT IS HEREBY ORDERED that Original Pharmacist License No. RPH 4616923issued to Respondent Thomas DiBenedetto (Respondent) is revoked. However, the revocation24is stayed and Respondent is placed on probation for five (5) years on the following terms and25conditions.

Actual Suspension. License No. RPH 46169, issued to Respondent
 Thomas DiBenedetto is suspended for a period of ninety (90) days, beginning on the effective
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date of this order. Respondent will have a credit for the 39 days already served in the
 Pharmacists Recovery Program.

During suspension, Respondent shall not enter any pharmacy area or any portion 3 4 of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other 5 distributor of drugs which is licensed by the Board, or any manufacturer, or where dangerous 6 drugs and devices or controlled substances are maintained. Respondent shall not practice 7 pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall Respondent manage, administer, or be 8 9 a consultant to any licensee of the Board, or have access to or control the ordering, 10 manufacturing or dispensing of dangerous drugs and devices or controlled substances. 11 Respondent shall not engage in any activity that requires the professional 12 judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of 13 pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee for any entity licensed by the Board. Subject to the above restrictions, Respondent may continue to 14 15 own or hold an interest in any pharmacy in which he holds an interest at the time this decision 16 becomes effective unless otherwise specified in this order. 17 Obey All Laws. Respondent shall obey all state and federal laws and 2. regulations substantially related to or governing the practice of pharmacy. 18 19 Respondent shall report any of the following occurrences to the Board, in writing, 20 within 72 hours of such occurrence: 21 an arrest or issuance of a criminal complaint for violation of any provision of the 22 Pharmacy Law, state and federal food and drug laws, or state and federal 23 controlled substances laws; 24 a plea of guilty or nolo contendere in any state or federal criminal proceeding to 25 any criminal complaint, information or indictment;

• a conviction of any crime;

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discipline, citation, or other administrative action filed by any state and federal
 agency which involves Respondent's license or which is related to the practice

of pharmacy or the manufacturing, obtaining, handling or distribution or billing or charging for any drug, device or controlled substance.

3 3. Reporting to the Board. Respondent shall report to the Board
quarterly. The report shall be made either in person or in writing, as directed. Respondent
shall state under penalty of perjury whether there has been compliance with all the terms and
conditions of probation. If the final probation report is not made as directed, probation shall
be extended automatically until such time as the final report is made and accepted by the
Board.

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9 4. Interview with the Board. Upon receipt of reasonable notice,
10 Respondent shall appear in person for interviews with the Board upon request at various
11 intervals at a location to be determined by the Board. Failure to appear for a scheduled
12 interview without prior notification to Board staff shall be considered a violation of probation.

5. Cooperation with Board Staff. Respondent shall cooperate with the
Board's inspectional program and in the Board's monitoring and investigation of Respondent's
compliance with the terms and conditions of his probation. Failure to comply shall be
considered a violation of probation.

17 6. Continuing Education. Respondent shall provide evidence of efforts
18 to maintain skill and knowledge as a pharmacist as directed by the Board.

Notice to Employers. Respondent shall notify all present and
 prospective employers of the decision in Case No. 3178 and the terms, conditions and
 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of
 this decision, and within 15 days of Respondent undertaking new employment, Respondent
 shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in
 writing acknowledging the employer has read the decision in Case No. 3178.

If Respondent works for or is employed by or through a pharmacy employment
service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at
every pharmacy of the and terms conditions of the decision in Case No. 3178 in advance of the
Respondent commencing work at each pharmacy.

"Employment" within the meaning of this provision shall include any full-time,
 part-time, temporary, relief or pharmacy management service as a pharmacist, whether the
 Respondent is considered an employee or independent contractor.

8. No Preceptorships, Supervision of Interns, Being Pharmacist-in Charge (PIC), or Serving as a Consultant. Respondent shall not supervise any intern
 pharmacist or perform any of the duties of a preceptor, nor shall Respondent be the
 pharmacist-in-charge of any entity licensed by the Board unless otherwise specified in this
 order.

9 9. Reimbursement of Board Costs. Respondent shall pay to the Board
10 its costs of investigation and prosecution in the amount of \$4,400.00. Respondent shall make
11 payments in equal amounts on a quarterly basis. The final payment is due no later than six
12 months before the end of the probationary term.

The filing of bankruptcy by Respondent shall not relieve Respondent of his
responsibility to reimburse the Board its costs of investigation and prosecution.

15 10. Probation Monitoring Costs. Respondent shall pay the costs
16 associated with probation monitoring as determined by the Board each and every year of
17 probation. Such costs shall be payable to the Board at the end of each year of probation.
18 Failure to pay such costs shall be considered a violation of probation.

19 11. Status of License. Respondent shall, at all times while on probation,
20 maintain an active current license with the Board, including any period during which
21 suspension or probation is tolled.

If Respondent's license expires or is canceled by operation of law or otherwise,
upon renewal or reapplication, Respondent's license shall be subject to all terms and
conditions of this probation not previously satisfied.

License Surrender While on Probation/Suspension. Following the
effective date of this decision, should Respondent cease practice due to retirement or health,
or be otherwise unable to satisfy the terms and conditions of probation, Respondent may
tender his license to the Board for surrender. The Board shall have the discretion whether to

grant the request for surrender or take any other action it deems appropriate and reasonable.
 Upon formal acceptance of the surrender of the license, Respondent will no longer be subject
 to the terms and conditions of probation.

Upon acceptance of the surrender, Respondent shall relinquish his pocket
license to the Board within 10 days of notification by the Board that the surrender is accepted.
Respondent may not reapply for any license from the Board for three years from the effective
date of the surrender. Respondent shall meet all requirements applicable to the license sought
as of the date the application for that license is submitted to the Board.

9 13. Notification of Employment/Mailing Address Change. Respondent
10 shall notify the Board in writing within 10 days of any change of employment. Said
11 notification shall include the reasons for leaving and/or the address of the new employer,
12 supervisor or owner and work schedule if known. Respondent shall notify the Board in
13 writing within 10 days of a change in name, mailing address or phone number.

14 14. Tolling of Probation. Should Respondent, regardless of residency, for
any reason cease practicing pharmacy for a minimum of 40 hours per calendar month in
California, Respondent must notify the Board in writing within 10 days of cessation of the
practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time
shall not apply to the reduction of the probation period. It is a violation of probation for
Respondent's probation to remain tolled pursuant to the provisions of this condition for a
period exceeding three years.

21 "Cessation of practice" means any period of time exceeding 30 days in which
22 Respondent is not engaged in the practice of pharmacy as defined in Section 4052 of the
23 Business and Professions Code.

Violation of Probation. 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 which was stayed. If a petition to revoke
probation or an accusation is filed against Respondent during probation, the Board shall have
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continuing jurisdiction and the period of probation shall be extended, until the petition to
 revoke probation or accusation is heard and decided.

If Respondent has not complied with any term or condition of probation, the
Board shall have continuing jurisdiction over Respondent, and probation shall automatically be
extended until all terms and conditions have been satisfied or the 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 which was stayed.

8 16. Completion of Probation. Upon successful completion of probation,
9 Respondent's license will be fully restored.

17. Rehabilitation Program - Pharmacists Recovery Program (PRP).
 Within 30 days of the effective date of this decision, Respondent shall contact the Pharmacists
 Recovery Program for evaluation and shall successfully participate in and complete the
 treatment contract and any subsequent addendums as recommended and provided by the PRP
 and as approved by the Board. The costs for PRP participation shall be borne by the
 Respondent.

16 If Respondent is currently enrolled in the PRP, said participation is now mandatory and is no longer considered a self-referral under Business and Professions Code 17 18 section 4363, as of the effective date of this decision. Respondent shall successfully participate 19 in and complete his current contract and any subsequent addendums with the PRP. Probation 20 shall be automatically extended until Respondent successfully completes his treatment contract. 21 Any person terminated from the program shall be automatically suspended upon notice by the 22 Board. Respondent may not resume the practice of pharmacy until notified by the Board in 23 writing. The Board shall retain jurisdiction to institute action to terminate probation for any violation of this term. 24

18. Random Drug Screening. Respondent, at his own expense, shall
participate in random testing, including but not limited to biological fluid testing (urine, blood),
breathalyzer, hair follicle testing, or a drug screening program approved by the Board. The
length of time shall be for the entire probation period and the frequency of testing will be

determined by the Board. At all times Respondent shall fully cooperate with the Board, and
 shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics,
 hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as
 directed shall constitute a violation of probation. Any confirmed positive drug test shall result
 in the immediate suspension of practice by Respondent. Respondent may not resume the
 practice of pharmacy until notified by the Board in writing.

19. Abstain from Drugs and Alcohol Use. Respondent shall completely
abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their
associated paraphernalia except when the drugs are lawfully prescribed by a licensed
practitioner as part of a documented medical treatment. Upon request of the Board,
Respondent shall provide documentation from the licensed practitioner that the prescription
was legitimately issued and is a necessary part of the treatment of the Respondent.

13 20. Supervised Practice. Respondent shall practice only under the
14 supervision of a pharmacist not on probation with the Board. Respondent shall not practice
15 until the supervisor is approved by the Board. The supervision shall be, as required by the
16 Board, either:

Continuous - 75% to 100% of a work week

Substantial - At least 50% of a work week

Partial - At least 25% of a work week

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Daily - Supervisor's review of probationer's daily activities within 24 hours
 Within 30 days of the effective date of this decision, Respondent shall have his
 supervisor submit notification to the Board in writing stating the supervisor has read the
 decision in Case No. 3178 and is familiar with the level of supervision as determined by the
 Board.

If Respondent changes employment, Respondent shall have his new supervisor,
within 15 days after employment commences, submit notification to the Board in writing
stating the direct supervisor and pharmacist-in-charge have read the decision in Case No. 3178
and is familiar with the level of supervision as determined by the Board.

Within 10, days of leaving employment, Respondent shall notify the Board in writing.

3 21. No Ownership of Premises. Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a manager, administrator, member, officer, 4 5 director, trustee, associate, or partner of any additional business, firm, partnership, or corporation licensed by the Board. If Respondent currently owns or has any legal or beneficial 6 7 interest in, or serves as a manager, administrator, member, officer, director, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by 8 the Board, Respondent may continue to serve in such capacity or hold that interest, but only to 9 the extent of that position or interest as of the effective of this decision. 10

11 22. Tolling of Suspension. If Respondent leaves California to reside or
 12 practice outside this state, for any period exceeding 10 days (including vacation), Respondent
 13 must notify the Board in writing of the dates of departure and return. Periods of residency or
 14 practice outside the state - or any absence exceeding a period of 10 days shall not apply to the
 15 reduction of the suspension period.

16 Respondent shall not practice pharmacy upon returning to this state until
17 notified by the Board that the period of suspension has been completed.

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ACCEPTANCE

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

DATED: 3-11-2 24

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THOMAS DIBENEDETT

I have read and fully discussed with Respondent Thomas DiBenedetto the terms 1 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary 2 3 Order. I approve its form and content. 3/11/09 DATED: 4 5 6 7 Attorney for Respondent 8 9 10 ENDORSEMENT 11 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of 12 13 Consumer Affairs. 14 DATED: <u>3/12/09</u> 15 16 EDMUND G. BROWN JR., Attorney General of the State of California 17 LINDA K. SCHNEIDER 18 Supervising Deputy Attorney General 19 Sausfle 20 21 DAVID E. HA Deputy Attorney General 22 Attorneys for Complainant 23 24 DOJ Matter ID: SD2008801201 80304673.wpd 25 26 27 28

Exhibit A Accusation No. 3178

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	EDMUND G. BROWN JR., Attorney General of the State of California		
2	LINDA K. SCHNEIDER Supervising Deputy Attorney General		
3	DAVID E. HAUSFELD, State Bar No. 110639 Deputy Attorney General		
4	110 West "A" Street, Suite 1100 San Diego, CA 92101		
5	P.O. Box 85266		
6	San Diego, CA 92186-5266 Telephone: (619) 645-2025		
7	Facsimile: (619) 645-2061		
8	Attorneys for Complainant		
9	BEFORE THE BOARD OF PHARMACY		
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
11	STATE OF CALIFORNIA		
12	In the Matter of the Accusation Against: Case No. 3178		
13	THOMAS DIBENEDETTO 4224 Coronado Avenue ACCUSATION		
14	San Diego, CA 92107		
15	Original Pharmacist License No. RPH 46169		
16	Respondent.		
17	Complainant alleges:		
- 18	PARTIES		
19	1. Virginia Herold (Complainant) brings this Accusation solely in her official		
20	capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.		
21	2. On or about April 26, 1993, the Board of Pharmacy issued Original		
22	Pharmacist License Number RPH 46169 to Thomas DiBenedetto (Respondent). The license was		
23	in full force and effect at all times relevant to the charges brought herein and will expire on		
24	August 31, 2008, unless renewed.		
25	JURISDICTION		
26	3. This Accusation is brought before the Board of Pharmacy (Board),		
27	Department of Consumer Affairs, under the authority of the following laws. All section		
28	references are to the Business and Professions Code unless otherwise indicated.		
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4. Section 4300(a) of the Code provides that every license issued by the
 Board may be suspended or revoked.

5. Section 118(b) of the Code provides that the suspension, expiration,
surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
disciplinary action during the period within which the license may be renewed, restored, reissued
or reinstated.

6. Section 492 of the Code provides that successful completion of any
diversion program under the Penal Code shall not prohibit any agency of the healing arts from
taking disciplinary action against a licensee for professional misconduct.

STATUTORY PROVISIONS

Section 4301 of the Code states, in part:

"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:

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

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

 DRUGS

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 8. "Methamphetamine" is a Schedule II controlled substance pursuant to

 27
 Health and Safety Code section 11055(d)(2), and is a dangerous drug pursuant to Business and

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 Professions Code section 4022.

COST RECOVERY

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9. 2 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 3 4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation 5 and enforcement of the case. FACTS 6 7 10. Respondent was employed as a staff pharmacist at Rite Aid #5615 (Rite 8 Aid), located in Chula Vista, California, from on or about August 2, 2004 through on or about 9 December 5, 2006. 10 11. On or about December 5, 2006 at approximately 2:30 p.m. the Chula Vista police responded to a report of a disoriented individual in the parking lot of the Valle Lindo 11 12 Elementary School. The Respondent was found asleep behind the wheel of his vehicle parked in 13 the school parking lot and blocking the school bus exit. 14 12. After the Respondent was awakened, a search of his vehicle was conducted, with the permission of the Respondent. Four "baggies" containing a total of 4.73 15 16 grams of crystal methamphetamine were discovered. 17 13. The Respondent was arrested and charged with violations of Health and 18 Safety Code sections 11377(a), Possession of a Controlled Substance; 11380.1 (a)(2), Possession 19 of Methamphetamine on School Grounds; and 11550(a), Under the Influence of Controlled 20 Substances. 21 14. A felony criminal complaint was filed on January 17, 2007. Respondent 22 was charged with a felony violation of Health and Safety Code section 11377 (a), Possession of a 23 Controlled Substance; a misdemeanor violation of Health and Safety Code section 11550(a), 24 Under the Influence of a Controlled Substance; and a misdemeanor violation of Vehicle Code 25 section 23152(a), Driving Under the Influence of Drugs. 26 15. On or about March 2, 2007, Respondent entered a plea of guilty of 27 violating Health and Safety Code section 11377(a), Felony Possession of a Controlled 28 Substance, Methamphetamine. The two misdemeanor charges were dismissed. Pursuant to

Penal Code section 1000, et. seq., entry of judgment was deferred and Respondent was ordered to 2 comply with a criminal diversion program.

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16. The Respondent completed a residential rehabilitation program in January 3 4 2007 pursuant to the terms of Penal Code section 1000, Deferred Entry of Judgment program 5 imposed by the court. He is scheduled to return to the court on November 20, 2008 for a Penal 6 Code section 1000 dismissal, if appropriate, upon satisfaction of all diversion requirements.

On or about June 13, 2007, during an interview with the Board's 7 17. .8 Inspector, Respondent admitted to being an addict for at least the past ten years.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Self Administration of a Controlled Substance)

18. 11 Paragraphs 1 though 17 are incorporated herein as though fully set forth. Respondent is subject to discipline for unprofessional conduct pursuant to Business and 12 13 Professions Code section 4301(h) in that Respondent administered to himself a controlled 14 substance, methamphetamine. Specifically, Respondent was under the influence of 15 methamphetamine, arrested and charged with a misdemeanor violation of Health and Safety 16 Code section 11550 (a).

SECOND CAUSE FOR DISCIPLINE

18 (Unprofessional Conduct - Violation of Statutes regulating Drugs) 19 19. Paragraphs 1 though 17 are incorporated herein as though fully set forth. 20 Respondent is subject to discipline for unprofessional conduct pursuant to Business and 21 Professions Code section 4301(j) in that he violated the statutes of the State regulating controlled 22 substances. Specifically, Respondent was in possession of methamphetamine, an illegal 23 controlled substance, in violation of 11377 (a) of the Health and Safety Code, and was also under 24 the influence, in violation of section 11550 of the Health and Safety Code. 25 /// 26 111 27 111

1 PRAYER WHEREFORE, Complainant requests that a hearing be held on the matters herein 2 alleged, and that following the hearing, the Board of Pharmacy issue a decision: 3 1. 4 Revoking or suspending Original Pharmacist License Number RPH 46169, issued to Thomas DiBenedetto; 5 2. Ordering Thomas DiBenedetto to pay the Board of Pharmacy the 6 reasonable costs of the investigation and enforcement of this case, pursuant to Business and 7 Professions Code section 125.3; 8 9 3. Taking such other and further action as deemed necessary and proper. 10 11 DATE 12 13 14 /IR GI Executive Officer 15 Board of Pharmacy Department of Consumer Affairs 16 State of California Complainant 17 SD2008801201 18 80244692.wpd 19 20 21 22 23 24 25 26 27 28