

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

In the Matter of the Accusation Against:

Case No. 3242

JOHNNY THOMAS LANG
5504 Ginger Drive
Bakersfield, CA 93309

Pharmacist License No. RPH 49557

Respondent.

DECISION AND ORDER

The attached Stipulated Revocation 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 April 21, 2010.

It is so ORDERED on March 22, 2010.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

Kenneth H. Schell

KENNETH H. SCHELL
Board President

1 EDMUND G. BROWN JR.
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12 **JOHNNY THOMAS LANG**
13 5504 Ginger Drive
14 Bakersfield, CA 93309
15 Pharmacist License No. RPH 50571
Respondent.

Case No. 3242
OAH No. L-2009061227
**STIPULATED REVOCATION OF
LICENSE AND ORDER**

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
18 proceeding that the following matters are true:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
21 She brought this action solely in her official capacity and is represented in this matter by Edmund
22 G. Brown Jr., Attorney General of the State of California, and by Heather Hua, Deputy Attorney
23 General.
24 2. Johnny Thomas Lang (Respondent) is represented in this proceeding by attorney
25 Robert Stewart, whose address is 24 Professional Center Parkway #100, San Rafael, CA 94903.
26 3. On or about September 29, 1998, the Board of Pharmacy issued Pharmacist License
27 No. RPH 50571 to Johnny Thomas Lang (Respondent). The pharmacist license was in full force
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1 and effect at all times relevant to the charges brought in Accusation No. 3242 and will expire on
2 November 30, 2009, unless renewed.

3 **JURISDICTION**

4 4. An Order for Automatic Suspension of Pharmacist License and Accusation No. 3242
5 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is
6 currently pending against Respondent. The Order for Automatic Suspension of Pharmacist
7 License and Accusation and all other statutorily required documents were properly served on
8 Respondent on May 7, 2009. Respondent timely filed his Notice of Defense contesting the
9 Accusation. A First Amended Accusation was properly served on Respondent and his attorney
10 on July 22, 2009. A Second Amended Accusation was properly served on Respondent and his
11 attorney on July 31, 2009. A copy of the Second Amended Accusation No. 3242 is attached as
12 exhibit A and incorporated herein by reference.

13 **ADVISEMENT AND WAIVERS**

14 5. Respondent has carefully read, fully discussed with counsel, and understands the
15 charges and allegations in the Second Amended Accusation No. 3242. Respondent also has
16 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
17 Revocation of License and Order.

18 6. Respondent is fully aware of his legal rights in this matter, including the right to a
19 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
20 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
21 to the issuance of subpoenas to compel the attendance of witnesses and the production of
22 documents; the right to reconsideration and court review of an adverse decision; and all other
23 rights accorded by the California Administrative Procedure Act and other applicable laws.

24 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
25 every right set forth above.

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1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in the Second
3 Amended Accusation No. 3242, agrees that cause exists for discipline and hereby revokes his
4 Pharmacist License No. RPH 50571 for the Board's formal acceptance.

5 9. Respondent understands that by signing this stipulation he enables the Board to issue
6 an order accepting the revocation of his Pharmacist License without further process.

7 CONTINGENCY

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

18 11. The parties understand and agree that facsimile copies of this Stipulated Revocation
19 of License and Order, including facsimile signatures thereto, shall have the same force and effect
20 as the originals.

21 12. In consideration of the foregoing admissions and stipulations, the parties agree that
22 the (Board) may, without further notice or formal proceeding, issue and enter the following
23 Order:

24 ORDER

25 IT IS HEREBY ORDERED that Pharmacist License No. RPH 50571, issued to Respondent
26 Johnny Thomas Lang is revoked and accepted by the Board of Pharmacy.

27 13. The revocation of Respondent's Pharmacist License and the acceptance of the
28 revoked license by the Board shall constitute the imposition of discipline against Respondent.

1 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
2 license history with the Board.

3 14. Respondent may not apply, reapply, or petition for any licensure or registration of the
4 Board for three (3) years from the effective date of the Decision and Order

5 15. Respondent shall cause to be delivered to the Board both his wall license certificate
6 and, if one was issued, pocket license on or before the effective date of the Decision and Order.

7 16. Respondent fully understands and agrees that if he ever files an application for
8 licensure or a petition for reinstatement in the State of California, the Board shall treat it as a
9 petition for reinstatement. Respondent must comply with all the laws, regulations and procedures
10 for reinstatement of a revoked license in effect at the time the petition is filed, and all of the
11 charges and allegations contained in Accusation No. 3242 shall be deemed to be true, correct and
12 admitted by Respondent when the Board determines whether to grant or deny the petition.

13 17. Should Respondent ever apply or reapply for a new license or certification, or petition
14 for reinstatement of a license, by any other health care licensing agency in the State of California,
15 all of the charges and allegations contained in the Second Amended Accusation No. 3242 shall be
16 deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
17 Issues or any other proceeding seeking to deny or restrict licensure.

18 18. Pursuant to Business and Professions Code section 4309(a)(1), the parties further
19 agree that Respondent may reapply for reinstatement no sooner than three (3) years from the
20 effective date of this Decision and Order.

21 19. Respondent shall reimburse the Board for its costs of investigation and enforcement
22 in the amount of **\$13,000 (Thirteen thousand dollars)**. If this sum is not fully paid when
23 Respondent petitions for reinstatement of his license, any license so granted shall be probationary
24 for the duration necessary to complete the reimbursement.

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ACCEPTANCE

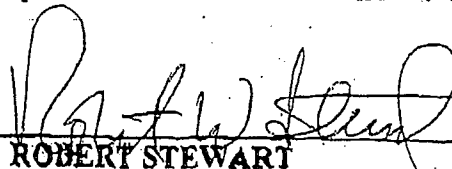
I have carefully read the above Stipulated Revocation of License and Order and have fully discussed it with my attorney, Robert Stewart. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Revocation of License and Order voluntarily, knowingly,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

DATED: 11-23-09


JOHNNY THOMAS LANG
Respondent

I have read and fully disoussed with Respondent Johnny Thomas Lang the terms and conditions and other matters contained in this Stipulated Revocation of License and Order. I approve its form and content.

DATED: 11-23-09


ROBERT STEWART
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Revocation of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: November 19, 2009

Respectfully Submitted,
EDMUND G. BROWN JR.
Attorney General of California
GREGORY SALUTE
Supervising Deputy Attorney General



HEATHER HUA
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Second Amended Accusation No. 3242

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GREGORY SALUTE
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3 HEATHER HUA, State Bar No. 223418
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7 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 3242

13 **JOHNNY THOMAS LANG**
5504 Ginger Drive
Bakersfield, CA 93309

SECOND AMENDED ACCUSATION

14 Pharmacist License No. RPH 50571

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Virginia K. Herold (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
21 Affairs.

22 2. On or about September 29, 1998, the Board of Pharmacy ("Board") issued
23 Pharmacist License Number RPH 50571 to Johnny Thomas Lang (Respondent). Respondent's
24 Pharmacist License will expire on November 30, 2009, 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 (Code) unless otherwise indicated.

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

5 5. Section 4011 of the Code states that the Board shall administer and
6 enforce both the Pharmacy Law [Bus. & Prof. Code, Section 4000 et seq.] and the Uniform
7 Controlled Substances Act [Health & Safety Code, Section 11000 et seq.].

8 6. Section 4300, subdivision (a) of the Code provides that every license
9 issued may be suspended or revoked.

10 7. Section 4402, subdivision (a) of the Code provides that any license that is
11 not renewed within three years following its expiration may not be renewed, restored, or
12 reinstated and shall be canceled by operation of law at the end of the three-year period.

13 **STATUTORY PROVISIONS**

14 8. Section 490 provides, in pertinent part, that a board may suspend or revoke
15 a license on the ground that the license has been convicted of a crime substantially related to the
16 qualifications, functions, or duties of the business or profession for which the license was issued.

17 9. Section 4022 states:

18 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
19 self-use in humans or animals, and includes the following: (a) Any drug that bears the legend:
20 "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar
21 import. (b) Any device that bears the statement: "Caution: federal law restricts this device to sale
22 by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in with
23 the designation of the practitioner licensed to use or order use of the device. (c) Any other drug or
24 device that by federal or state law can be lawfully dispensed only on prescription or furnished
25 pursuant to Section 4006."

26 10. Section 4060 states:

27 "No person shall possess any controlled substance, except that furnished to a
28 person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or

1 naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a
2 certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section
3 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to
4 Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause
5 (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall
6 not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
7 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
8 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
9 labeled with the name and address of the supplier or producer. Nothing in this section authorizes
10 a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to
11 order his or her own stock of dangerous drugs and devices.”

12 11. Section 4301 states:

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

17
18 "(f) The commission of any act involving moral turpitude, dishonesty, fraud,
19 deceit, or corruption, whether the act is committed in the course of relations as a licensee or
20 otherwise, and whether the act is a felony or misdemeanor or not.

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

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27 “(j) The violation of any of the statutes of this state or of the United States
28 regulating controlled substances and dangerous drugs.

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

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

22 " (o) Violating or attempting to violate, directly or indirectly, or assisting in or
23 abetting the violation of or conspiring to violate any provision or term of this chapter or of the
24 applicable federal and state laws and regulations governing pharmacy, including regulations
25 established by the board or by any other state or federal regulatory agency."

26 12. Section 4327 states:

27 "Any person who, while on duty, sells, dispenses or compounds any drug while
28 under the influence of any dangerous drug or alcoholic beverages shall be guilty of a

1 misdemeanor.”

2 REGULATORY PROVISIONS

3 13. California Code of Regulations, title 16, section 1770, states:

4 "For the purpose of denial, suspension, or revocation of a personal or facility
5 license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions
6 Code, a crime or act shall be considered substantially related to the qualifications, functions or
7 duties of a licensee or registrant if to a substantial degree it evidences present or potential
8 unfitness of a licensee or registrant to perform the functions authorized by his license or
9 registration in a manner consistent with the public health, safety, or welfare."

10 14. Section 4300 of the Code 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 board,
13 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
17 not exceeding one year.

18 "(4) Revoking his or her license.

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

21 15. Health and Safety Code section 11350, subdivision (a), states:

22 "Except as otherwise provided in this division, every person who possesses (1)
23 any controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of
24 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or
25 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section
26 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic
27 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian
28 licensed to practice in this state, shall be punished by imprisonment in the state prison.

1 COST RECOVERY

2 16. Section 125.3 of the Code provides, in pertinent part, that the Board may
3 request the administrative law judge to direct a licensee found to have committed a violation or
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.

6 DANGEROUS DRUGS

7 17. The dangerous drugs stolen by Respondent are listed below:

8 a. Vicodin, Norco - a brand name for Hydrocodone/acetaminophen.

9 It is a Schedule III controlled substance, as defined in Health and Safety Code section
10 11056(e)(4), and is categorized as a "dangerous drug" pursuant to Business and Professions Code
11 section 4022.

12 b. OxyContin - a brand name for Oxycodone. It is a Schedule II
13 controlled substance, as defined in Health and Safety Code section 11055(a)(1)(N), and is
14 categorized as a "dangerous drug" pursuant to Business and Professions Code section 4022.

15 c. MS Contin - a brand name for Morphine. It is a Schedule II
16 controlled substance, as defined in Health and Safety Code section 11055(a)(1)(M), and is
17 categorized as a "dangerous drug" pursuant to Business and Professions Code section 4022.

18 d. Xanax - a brand name for Alprazolam. It is a Schedule IV
19 controlled substance, as defined in Health and Safety Code section 11057(d)(1), and is
20 categorized as a "dangerous drug" pursuant to Business and Professions Code section 4022.

21 e. Hydromorphone - It is a Schedule II controlled substance, as
22 defined in Health and Safety Code section 11055(a)(1)(k), and is categorized as a "dangerous
23 drug" pursuant to Business and Professions Code section 4022.

24 f. Fentanyl - It is a Schedule II controlled substance, as defined in
25 Health and Safety Code section 11055(c)(8), and is categorized as a "dangerous drug" pursuant
26 to Business and Professions Code section 4022.

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1 g. Amphetamine - It is a Schedule II controlled substance, as defined
2 in Health and Safety Code section 11055(d)(1), and is categorized as a "dangerous drug"
3 pursuant to Business and Professions Code section 4022.

4 h. Ritalin - a brand name for Methylphenidate. It is a Schedule II
5 controlled substance, as defined in Health and Safety Code section 11055(d)(6), and is
6 categorized as a "dangerous drug" pursuant to Business and Professions Code section 4022.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Corrupt Acts - Stealing Hydrocodone Containing Medications)**

9 18. Respondent is subject to disciplinary action under Code section 490 and
10 4301, subdivision (f), in conjunction with California Code of Regulations, title 16, section 1770,
11 on the grounds of unprofessional conduct. Respondent engaged in unprofessional conduct in that
12 he conducted acts involving moral turpitude; dishonesty, fraud, deceit, or corruption. The
13 circumstances are as follows:

14 a. Between July of 2008 and the later part of October 2008, all the exact
15 dates which are unknown, Respondent stole multiple controlled substances including, but not
16 limited to OxyContin, MS Contin, Hydromorphone, and Alprazolam, from pharmacies where he
17 worked.

18 b. Pharmacies he stole from included at least Sav-On 6398 (Phy 47642),
19 Longs 270 (Phy 34345), Longs 267 (Phy 34342), Longs 417 (Phy 43377), and Sav-On 6336 (Phy
20 47650).

21 c. The exact number of tablets stolen were unknown, but was estimated to be
22 at least 200 tablets of the various stolen controlled substances.

23 **SECOND CAUSE OF ACTION**

24 **(Unlawful Possession of Controlled Substances)**

25 19. Respondent is subject to disciplinary action under Code sections 490,
26 4060, and 4301, subdivisions (j) & (o), in conjunction with Health and Safety Code section
27 11350, subdivision (a), on the grounds of unprofessional conduct. Respondent engaged in
28 unprofessional conduct in that he violated the statutes of this state regulating controlled

1 substances and dangerous drugs. The circumstances are as follows:

2 a. Between approximately July of 2008, and the later part of October 2008,
3 all the exact dates which were unknown, Respondent stole multiple controlled substances
4 including at least OxyContin, MS Contin, Hydromorphone, and Alprazolam from pharmacies
5 where he worked.

6 b. Per his own admission, Respondent purchased additional unknown
7 quantities of OxyContin from unknown street sources, on dates which were not specifically
8 known, which he also illegally possessed for self-administration.

9 c. Respondent was illegally in possession of the stolen and purchased
10 controlled substances during the period, without prescriptions for those controlled substances.

11 **THIRD CAUSE OF ACTION**

12 **(Unlawful Self-Administration of Controlled Substances)**

13 20. Respondent is subject to disciplinary action under Code sections 490 and
14 4301, subdivision (h), in conjunction with California Code of Regulations, title 16, section 1770,
15 on the grounds of unprofessional conduct. Respondent engaged in unprofessional conduct in that
16 he administered to himself controlled substances. The circumstances are as follows:

17 a. Between approximately July of 2008, and the later part of October 2008,
18 all the exact dates which were unknown, Respondent stole multiple controlled substances
19 including at least OxyContin, MS Contin, Hydromorphone, and Alprazolam from pharmacies
20 where he worked.

21 b. Respondent regularly and illegally self-administered those controlled
22 substances.

23 c. Per his own admission, Respondent purchased additional unknown
24 quantities of OxyContin from unknown street sources, the specific dates which were unknown.

25 d. Respondent also used these purchased controlled substances for illegal
26 self-administration for his addiction.

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FOURTH CAUSE OF ACTION

(Working as a Pharmacist Under the Influence)

21. Respondent is subject to disciplinary action under Code sections 490, 4022, 4301, subdivision (o), and 4327 in conjunction with California Code of Regulations, title 16, section 1770, on the grounds of unprofessional conduct. Respondent engaged in unprofessional conduct in that he violated or attempted to violate directly or indirectly, a provision or term of law (in Code section 4000 et seq.) or of the applicable federal and state laws governing pharmacy, including regulations established by the Board. The circumstances are as follows:

a. Between approximately July of 2008, and the later part of October 2008, all the exact date which were unknown, Respondent regularly self-administered at least OxyContin, a Schedule II controlled substance and narcotic, while at work as a pharmacist at multiple pharmacies including at least Sav-On 6398 (Phy 47642), Longs 270 (Phy 34345), Longs 267 (Phy 34342), Longs 417 (Phy 43377), and Sav-On 6336 (Phy 47650).

b. Respondent was under the influence of the self-administered controlled substances during numerous times, including when he was involved with the preparation, compounding, dispensing, and sale of prescriptions, and providing patient care, as a licensed pharmacist.

c. These drugs are considered dangerous drugs as defined in Code section 4022.

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FIFTH CAUSE OF ACTION

(Conviction of Substantially Related Crimes)

22. Respondent is subject to disciplinary action under Code section 490 and 4301, subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the grounds of unprofessional conduct. Respondent was convicted of a crime substantially related to the qualifications, functions or duties of a Licensed Pharmacist, as follows:

a. On or about March 12, 2009, in a criminal proceeding entitled *The People of the State of California v. Johnny Thomas Lang* in Kern County, Bakersfield Municipal Court,

1 Case No. BM746614A, Respondent was convicted on a plea of *nolo contendere* for violating
2 Vehicle Code 12500(a) [driving with a suspended license].

3 b. The circumstances surrounding the conviction are that on or about
4 February 6, 2009, California Highway Patrol Officers observed Respondent driving a vehicle in
5 violation of a Vehicle Code Section. An inquiry of Respondent's record revealed that
6 Respondent's driver's license was suspended almost a year ago.

7 c. On or about February 18, 2009, in a criminal proceeding entitled *The*
8 *People of the State of California v. Johnny Thomas Lang* in Kern County, Bakersfield Municipal
9 Court, Case No. BM 743774A, Respondent was convicted on a plea of *nolo contendere* for
10 violating Penal Code sections 496(a) [receiving stolen property] and 487(a) [property grand
11 theft].

12 d. The circumstances surrounding the conviction are that on or about October
13 23, 2008, Respondent willfully and unlawfully sold and received property that belongs to Longs
14 Drugs in violation of Penal Code section 496(a).

15 e. Additionally, on or about October 14, 2008 and October 23, 2008,
16 Respondent willfully and unlawfully take money or personal property of Longs Drugs, of a value
17 exceeding \$400, in violation of Penal Code section 487(a).

18 f. On or about November 4, 2008, in a criminal proceeding entitled *The*
19 *People of the State of California v. Johnny Thomas Lang* in Glenn County Superior Court,
20 Willows Branch, Case No. 08SCR04823, Respondent was convicted on a plea of *nolo*
21 *contendere* for violating Vehicle Code 23152(b) [having 0.08 percent and more, by weight, of
22 alcohol in his blood while driving a vehicle] and for violating Vehicle Code 23222(b)
23 [unlawfully possessing marijuana while driving a vehicle].

24 g. The circumstances surrounding the conviction are that on or about April
25 24, 2008, California Highway Patrol officers observed Respondent driving a vehicle at a high
26 rate of speed. Officers observed Respondent had an odor of an alcoholic beverage, constricted
27 pupils, slow methodical speech and movements, and balance impairment. Respondent admitted
28 to the officers that he had smoked a "small" amount of marijuana four hours ago. A blood

1 sample from Respondent contained 0.13% alcohol level.

2 SIXTH CAUSE FOR DISCIPLINE

3 (Disciplinary Action by the State of Oregon Board of Pharmacy)

4 23. Respondent is subject to disciplinary action pursuant to Code section
5 4301, subdivision (f), on the ground of unprofessional conduct, in that he was the subject of two
6 disciplinary orders issued by the State of Oregon Board of Pharmacy, as specified in the
7 following paragraphs:

8 A. Consent Order 2007-0107 (Probation). On or about August 20, 2007,
9 the State of Oregon Board of Pharmacy (Oregon Board) issued a Notice of Proposed Disciplinary
10 Action ("Notice") in Case No. 2007-0107 against Respondent. The Notice alleged that from
11 approximately 2005 until March 2007, while employed at Rite Aid #5323, located at 14625 SW
12 Allen Blvd., Beaverton, Oregon, Respondent was disciplined for unlawful possession of
13 prescription drugs and illegal use of drugs, and medications without a practitioner's prescription
14 in violation of Oregon's regulation and statute governing the practice of pharmacy.

15 In a Consent Order executed on September 7, 2007, Respondent was placed on
16 probation in Case No. 2007-0107 for violations that included illegally obtaining, possessing, and
17 using prescription controlled substances from approximately 2005 to March 2007.

18 Conditions of probation included joining and complying with all conditions of the
19 Pharmacy Recovery Network (PRN), complying with all laws and rules regarding pharmacy
20 practice, and during the five (5) year probationary period, as soon as reasonably practical,
21 providing all present and prospective pharmacy related employers and any pharmacists-in-charge
22 (PIC) of the licensee with a copy of the Notice and the final order in Case No. 2007-0107 and
23 having the PIC and management acknowledge to the Board in writing, on a form supplied by the
24 Board, that the PIC and management have received a copy of both the Notice and the Order and
25 submit said written acknowledgement to the Board office by certified mail (or any other method
26 approved by the Board in writing) within 15 calendar days and retain receipt of verification of
27 delivery to the Board office.

28 ///

1 In a Consent Order executed on February 28, 2008, Respondent admitted that the
2 allegations in the Notice were true, that legal cause existed to discipline his pharmacist license,
3 and that he consented to disciplinary action in the form of a five year probationary period.

4 B. Consent Order 2008-0063 (Revocation). On or about February 28, 2008,
5 the Oregon Board issued a subsequent Consent Order in Case No. 2008-0063. The Consent
6 Order concluded that Respondent had violated Oregon law in the following manner:

- 7 (1) Respondent failed to notify his pharmacy related employers of his Notice and Order
8 in Case No. 2007-0107 and failed to provide the required written notification to the Board as
9 required by his probation and failed to comply with all conditions of his PRN contract, and he
10 was dishonest with Board staff and PRN staff when questioned about his employment; and (2)
11 Respondent illegally obtained, possessed, and used prescription controlled substances after being
12 placed on probation in Case No. 2007-0107; and (3) Respondent agreed on or about December
13 12, 2007 to the PRN Director that he would not enter a pharmacy due to non-compliance with his
14 PRN contract; and (4) Respondent, after meeting with both the Board Compliance Director and
15 the PRN Director that he was still barred from entering a pharmacy due to additional non-
16 compliance with his PRN contract and his Board Probation; and (5) Respondent had been
17 working in a pharmacy on a regular basis since the above aforementioned agreement; and (6)
18 Respondent failed to comply with his probation and all laws and rules regarding pharmacy
19 practice; and (7) Respondent's violations of Oregon law constitute unprofessional conduct.

20 The Oregon Board revoked Respondent's pharmacist license on the basis of these
21 violations.

22 PRAYER

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

- 25 1. Revoking or suspending Pharmacist License Number RPH 50571, issued
26 to Johnny Thomas Lang;

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2. Ordering Johnny Thomas Lang to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: July 31, 2009

Heather Herold for

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

Complainant

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6

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 Against:
12 JOHNNY THOMAS LANG
5504 Ginger Drive
13 Bakersfield, CA 93309
Pharmacist License No. RPH 50571
14
15 Respondent.

Case No. 3242

**ORDER FOR AUTOMATIC
SUSPENSION OF
PHARMACIST LICENSE**

16
17 **JURISDICTION**

- 18 1. Virginia K. Herold, acting solely in her capacity as Executive Officer for
19 the Board of Pharmacy, issues the present Order for Automatic Suspension of a Pharmacist
20 License.
- 21 2. On or about September 29, 1998, the Board of Pharmacy ("Board") issued
22 Pharmacist License Number RPH 50571 to Johnny Thomas Lang (Respondent). Respondent's
23 Pharmacist License will expire on November 30, 2009, unless renewed.
- 24 3. Business and Professions Code section 4301.5 states, in pertinent part:
25 (a) If a pharmacist possesses a license or is otherwise
26 authorized to practice pharmacy in any other state or by an agency of the federal
27 government, and that license or authority is suspended or revoked, the
28 pharmacist's license shall be suspended automatically for the duration of the
suspension or revocation, unless terminated or rescinded as provided in

1 subdivision (c). The board shall notify the pharmacist of the license suspension
2 and of his or her right to have the issue of penalty heard as provided in this
section.

3 * * * *

4 (c) The issue of penalty shall be heard by an administrative law judge,
5 sitting alone, or by a committee of the board sitting with an administrative law
6 judge, at the board's discretion. A pharmacist may request a hearing on the
7 penalty, and that hearing shall be held within 90 days from the date of the request.
8 If the order suspending or revoking the pharmacist's license or authority to
practice pharmacy is overturned on appeal, any discipline ordered pursuant to this
section shall automatically cease. Upon the showing to the administrative law
9 judge, board, or committee of the board by the pharmacist that the out-of-state
action is not a basis for discipline in California, the suspension shall be rescinded.

9 * * * *

10 (e) If a summary suspension has been issued pursuant to this section,
11 the pharmacist may request that the hearing on the penalty conducted pursuant to
12 subdivision (c) be held at the same time as a hearing on the accusation.

12 BASIS FOR ORDER

13 4. On or about May 7, 2008, the Board received notification from the Oregon
14 State Board of Pharmacy (hereinafter "the Oregon Board") that the Oregon Board had revoked
15 Respondent's right to practice pharmacy in Oregon on or about February 28, 2008.

16 5. On or about May 7, 2008, the Board received a certified copy of the
17 Consent Order issued by the Oregon Board revoking Respondent's pharmacist license.

18 ORDER


19 **YOU ARE HEREBY NOTIFIED** that pursuant to the Board's authority under
20 Business and Professions Code section 4301.5, subdivision (a), Pharmacist License Number
21 50571, is automatically suspended from the effective date of this Order, unless terminated or
22 rescinded, provided in subdivision (c) of that Code.

23 **YOU ARE HEREBY FURTHER NOTIFIED** that you have the right to have
24 the issue of penalty heard as provided in subdivisions (a) and (c). You may request a hearing on
25 the penalty by delivering or mailing a written request for a hearing, signed by you or on your
26 behalf, to the Board, represented by Heather Hua, Deputy Attorney General. Said hearing will
27 be held within ninety (90) days from the date of your request. Pursuant to subdivision (e), you
28 may also request that the hearing on the penalty conducted pursuant to subdivision (c) be held at

1 the same time as a hearing on Accusation Number 3242.

2 This Order for Automatic Suspension of Pharmacist License shall become
3 effective upon signature of a Board member or designee, on the date set forth below.

4 DATED: April 10, 2009

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7 _____
8 KENNETH H. SCHELL
9 PRESIDENT
10 BOARD OF PHARMACY
11 DEPARTMENT OF CONSUMER AFFAIRS
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