

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

In the Matter of the Accusation Against:

Case No. 3370

NORMAN BRUCE SHIBLEY
45446 Genoa Avenue
Lancaster, CA 93534

Pharmacist License No. RPH 39528

Respondent.

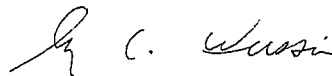
DECISION AND ORDER

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 March 28, 2011.

It is so ORDERED on February 25, 2011.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

1 EDMUND G. BROWN JR.
Attorney General of California
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7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 3370

11 **NORMAN BRUCE SHIBLEY**
12 45446 Genoa Avenue
13 Lancaster, CA 93534
Pharmacist License No. RPH 39528

OAH No. L-2010060238

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 Respondent.

15
16 In the interest of a prompt and speedy settlement of this matter, consistent with the public
17 interest and the responsibility of the Board of Pharmacy, the parties hereby agree to the following
18 Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval
19 and adoption as the final disposition of the Accusation.

20 PARTIES

21 1. Virginia K. Herold (Complainant) is the Executive Officer of the California State
22 Board of Pharmacy. She brought this action solely in her official capacity and is represented in
23 this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Nancy A.
24 Kaiser, Deputy Attorney General.

25 2. Respondent Norman Bruce Shibley (Respondent) is represented in this proceeding by
26 attorney Edgardo Gonzalez, whose address is: 1300 Clay Street, Suite 600, Oakland, CA 94612.
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CONTINGENCY

1
2 10. This stipulation shall be subject to approval by the Board. Respondent understands
3 and agrees that counsel for Complainant and the staff of the Board may communicate directly
4 with the Board regarding this stipulation and settlement, without notice to or participation by
5 Respondent. By signing the stipulation, Respondent understands and agrees that he may not
6 withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers
7 and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the
8 Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this
9 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
10 be disqualified from further action by having considered this matter.

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

14 12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
15 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
16 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
17 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
18 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
19 writing executed by an authorized representative of each of the parties.

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

DISCIPLINARY ORDER

23
24 IT IS HEREBY ORDERED that Pharmacist License No. RPH 39528 issued to Respondent
25 Norman Bruce Shibley (Respondent) is revoked. However, the revocation is stayed and
26 Respondent is placed on probation for six (6) years on the following terms and conditions.
27
28

1 1. **Actual Suspension.** As part of probation, Respondent is suspended from the
2 practice of pharmacy for **nine (9) months** beginning the effective date of this decision.

3 During suspension, Respondent shall not enter any pharmacy area or any portion of the
4 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
5 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices
6 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
7 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
8 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
9 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
10 and devices or controlled substances.

11 Respondent shall not engage in any activity that requires the professional judgment of a
12 pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy.
13 Respondent shall not perform the duties of a pharmacy technician or a designated representative
14 for any entity licensed by the Board.

15 Subject to the above restrictions, Respondent may continue to own or hold an interest in
16 any licensed premises in which he holds an interest at the time this decision becomes effective
17 unless otherwise specified in this order.

18 Failure to comply with this suspension shall be considered a violation of probation.

19 2. **Obey All Laws.** Respondent shall obey all state and federal laws and regulations.

20 Respondent shall report any of the following occurrences to the Board, in writing, within
21 seventy-two (72) hours of such occurrence:

- 22 • an arrest or issuance of a criminal complaint for violation of any provision of the
23 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
24 substances laws
 - 25 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
26 criminal complaint, information or indictment
 - 27 • a conviction of any crime
- 28

- discipline, citation, or other administrative action filed by any state or federal agency which involves Respondent's pharmacist license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

Failure to timely report such occurrence shall be considered a violation of probation.

3. **Report to the Board.** Respondent shall report to the Board quarterly, on a schedule as directed by the Board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, Respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the Board.

4. **Interview with the Board.** Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews with the Board or its designee, at such intervals and locations as are determined by the Board or its designee. Failure to appear for any scheduled interview without prior notification to Board staff, or failure to appear for two (2) or more scheduled interviews with the Board or its designee during the period of probation, shall be considered a violation of probation.

5. **Cooperate with Board Staff.** Respondent shall cooperate with the Board's inspection program and with the Board's monitoring and investigation of Respondent's compliance with the terms and conditions of his probation. Failure to cooperate shall be considered a violation of probation.

6. **Continuing Education.** Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board or its designee.

7. **Notice to Employers.** During the period of probation, Respondent shall notify all present and prospective employers of the decision in case number 3370 and the terms, conditions and restrictions imposed on Respondent by the decision, as follows:

1 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
2 Respondent undertaking any new employment, Respondent shall cause his direct supervisor,
3 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
4 tenure of employment) and owner to report to the Board in writing acknowledging that the listed
5 individual(s) has/have read the decision in case number 3370, and terms and conditions imposed
6 thereby. It shall be Respondent's responsibility to ensure that his employer(s) and/or
7 supervisor(s) submit timely acknowledgment(s) to the Board.

8 If Respondent works for or is employed by or through a pharmacy employment service,
9 Respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
10 licensed by the Board of the terms and conditions of the decision in case number 3370 in advance
11 of the Respondent commencing work at each licensed entity. A record of this notification must
12 be provided to the Board upon request.

13 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
14 (15) days of Respondent undertaking any new employment by or through a pharmacy
15 employment service, Respondent shall cause his direct supervisor with the pharmacy employment
16 service to report to the Board in writing acknowledging that he has read the decision in case
17 number 3370 and the terms and conditions imposed thereby. It shall be Respondent's
18 responsibility to ensure that his employer(s) and/or supervisor(s) submit timely
19 acknowledgment(s) to the Board.

20 Failure to timely notify present or prospective employer(s) or to cause that/those
21 employer(s) to submit timely acknowledgments to the Board shall be considered a violation of
22 probation.

23 "Employment" within the meaning of this provision shall include any full-time, part-time,
24 temporary, relief or pharmacy management service as a pharmacist or any position for which a
25 pharmacist license is a requirement or criterion for employment, whether the Respondent is an
26 employee, independent contractor or volunteer.

1 8. **No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
2 **Designated Representative-in-Charge, or Serving as a Consultant.** During the period of
3 probation, Respondent shall not supervise any intern pharmacist, be the pharmacist-in-charge or
4 designated representative-in-charge of any entity licensed by the Board nor serve as a consultant
5 unless otherwise specified in this order. Assumption of any such unauthorized supervision
6 responsibilities shall be considered a violation of probation.

7 9. **Reimbursement of Board Costs.** As a condition precedent to successful completion
8 of probation, Respondent shall pay to the Board its costs of investigation and prosecution in the
9 amount of **\$3,500.00**. Respondent shall make said payments pursuant to a schedule to be set by
10 the Board.

11 There shall be no deviation from this schedule absent prior written approval by the Board or
12 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
13 probation.

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

16 10. **Probation Monitoring Costs.** Respondent shall pay any costs associated with
17 probation monitoring as determined by the Board each and every year of probation. Such costs
18 shall be payable to the Board on a schedule as directed by the Board or its designee. Failure to
19 pay such costs by the deadline(s) as directed shall be considered a violation of probation.

20 11. **Status of License.** Respondent shall, at all times while on probation, maintain an
21 active, current license with the Board, including any period during which suspension or probation
22 is tolled. Failure to maintain an active, current license shall be considered a violation of
23 probation.

24 If Respondent's license expires or is cancelled by operation of law or otherwise at any time
25 during the period of probation, including any extensions thereof due to tolling or otherwise, upon
26 renewal or reapplication Respondent's license shall be subject to all terms and conditions of this
27 probation not previously satisfied.

28

1 12. **License Surrender While on Probation/Suspension.** Following the effective date of
2 this decision, should Respondent cease practice due to retirement or health, or be otherwise
3 unable to satisfy the terms and conditions of probation, Respondent may tender his license to the
4 Board for surrender. The Board or its designee shall have the discretion whether to grant the
5 request for surrender or take any other action it deems appropriate and reasonable. Upon formal
6 acceptance of the surrender of the license, Respondent will no longer be subject to the terms and
7 conditions of probation. This surrender constitutes a record of discipline and shall become a part
8 of the Respondent's license history with the Board.

9 Upon acceptance of the surrender, Respondent shall relinquish his pocket and wall license
10 to the Board within ten (10) days of notification by the Board that the surrender is accepted.
11 Respondent may not reapply for any license from the Board for three (3) years from the effective
12 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
13 of the date the application for that license is submitted to the Board, including any outstanding
14 costs.

15 13. **Notification of a Change in Name, Residence Address, Mailing Address or**
16 **Employment.** Respondent shall notify the Board in writing within ten (10) days of any change of
17 employment. Said notification shall include the reasons for leaving, the address of the new
18 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
19 shall further notify the Board in writing within ten (10) days of a change in name, residence
20 address, mailing address, or phone number.

21 Failure to timely notify the Board of any change in employer(s), name(s), address(es), or
22 phone number(s) shall be considered a violation of probation.

23 14. **Tolling of Probation.** Except during periods of suspension, Respondent shall, at all
24 times while on probation, be employed as a pharmacist in California for a minimum of 80 hours
25 per calendar month. Any month during which this minimum is not met shall toll the period of
26 probation, i.e., the period of probation shall be extended by one month for each month during
27 which this minimum is not met. During any such period of tolling of probation, Respondent must
28 nonetheless comply with all terms and conditions of probation.

1 Should Respondent, regardless of residency, for any reason (including vacation) cease
2 practicing as a pharmacist for a minimum of 80 hours per calendar month in California,
3 Respondent must notify the Board in writing within ten (10) days of the cessation of practice, and
4 must further notify the Board in writing within ten (10) days of the resumption of practice. Any
5 failure to provide such notification(s) shall be considered a violation of probation.

6 It is a violation of probation for Respondent's probation to remain tolled pursuant to the
7 provisions of this condition for a total period, counting consecutive and non-consecutive months,
8 exceeding thirty-six (36) months.

9 "Cessation of practice" means any calendar month during which Respondent is not
10 practicing as a pharmacist for at least 80 hours, as defined by Business and Professions Code
11 section 4000 et seq. "Resumption of practice" means any calendar month during which
12 Respondent is practicing as a pharmacist for at least 80 hours as a pharmacist as defined by
13 Business and Professions Code section 4000 et seq.

14 **15. Violation of Probation.** If a Respondent has not complied with any term or
15 condition of probation, the Board shall have continuing jurisdiction over Respondent, and
16 probation shall automatically be extended, until all terms and conditions have been satisfied or the
17 Board has taken other action as deemed appropriate to treat the failure to comply as a violation of
18 probation, to terminate probation, and to impose the penalty that was stayed.

19 If Respondent violates probation in any respect, the Board, after giving Respondent notice
20 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
21 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
22 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
23 a petition to revoke probation or an accusation is filed against Respondent during probation, the
24 Board shall have continuing jurisdiction and the period of probation shall be automatically
25 extended until the petition to revoke probation or accusation is heard and decided.

26 **16. Completion of Probation.** Upon written notice by the Board or its designee
27 indicating successful completion of probation, Respondent's license will be fully restored.
28

1 17. **Pharmacists Recovery Program (PRP).** Within thirty (30) days of the effective date
2 of this decision, Respondent shall contact the Pharmacists Recovery Program (PRP) for
3 evaluation, and shall immediately thereafter enroll, successfully participate in, and complete the
4 treatment contract and any subsequent addendums as recommended and provided by the PRP and
5 as approved by the Board or its designee. The costs for PRP participation shall be borne by the
6 Respondent.

7 If Respondent is currently enrolled in the PRP, said participation is now mandatory and as
8 of the effective date of this decision is no longer considered a self-referral under Business and
9 Professions Code section 4362(c)(2). Respondent shall successfully participate in and complete
10 his current contract and any subsequent addendums with the PRP.

11 Failure to timely contact or enroll in the PRP, or successfully participate in and complete
12 the treatment contract and/or any addendums, shall be considered a violation of probation.

13 Probation shall be automatically extended until Respondent successfully completes the
14 PRP. Any person terminated from the PRP program shall be automatically suspended by the
15 Board. Respondent may not resume the practice of pharmacy until notified by the Board in
16 writing.

17 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
18 licensed practitioner as part of a documented medical treatment shall result in the automatic
19 suspension of practice by Respondent and shall be considered a violation of probation.
20 Respondent may not resume the practice of pharmacy until notified by the Board in writing.

21 During suspension, Respondent shall not enter any pharmacy area or any portion of the
22 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
23 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices
24 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
25 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
26 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
27 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
28 and controlled substances. Respondent shall not resume practice until notified by the Board.

1 During suspension, Respondent shall not engage in any activity that requires the
2 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
3 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
4 designated representative for any entity licensed by the Board.

5 Subject to the above restrictions, Respondent may continue to own or hold an interest in
6 any licensed premises in which he holds an interest at the time this decision becomes effective
7 unless otherwise specified in this order.

8 Failure to comply with this suspension shall be considered a violation of probation.

9 Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not
10 timely paid to the PRP shall constitute a violation for probation. The Board will collect unpaid
11 administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

12 **18. Random Drug Screening.** Respondent, at his own expense, shall participate in
13 random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer,
14 hair follicle testing, or other drug screening program as directed by the Board or its designee.
15 Respondent may be required to participate in testing for the entire probation period and the
16 frequency of testing will be determined by the Board or its designee. At all times, Respondent
17 shall fully cooperate with the Board or its designee, and shall, when directed, submit to such tests
18 and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled
19 substances as the Board or its designee may direct. Failure to timely submit to testing as directed
20 shall be considered a violation of probation. Upon request of the Board or its designee,
21 Respondent shall provide documentation from a licensed practitioner that the prescription for a
22 detected drug was legitimately issued and is a necessary part of the treatment of the Respondent.
23 Failure to timely provide such documentation shall be considered a violation of probation. Any
24 confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed
25 practitioner as part of a documented medical treatment shall be considered a violation of
26 probation and shall result in the automatic suspension of practice of pharmacy by Respondent.
27 Respondent may not resume the practice of pharmacy until notified by the Board in writing.
28

1 During suspension, Respondent shall not enter any pharmacy area or any portion of the
2 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
3 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices
4 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
5 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
6 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
7 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
8 and controlled substances. Respondent shall not resume practice until notified by the Board.

9 During suspension. Respondent shall not engage in any activity that requires the
10 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
11 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
12 designated representative for any entity licensed by the Board.

13 Subject to the above restrictions, Respondent may continue to own or hold an interest in
14 any licensed premises in which he holds an interest at the time this decision becomes effective
15 unless otherwise specified in this order.

16 Failure to comply with this suspension shall be considered a violation of probation.

17 19. **Abstain from Drugs and Alcohol Use.** Respondent shall completely abstain from
18 the possession or use of alcohol, controlled substances, dangerous drugs and their associated
19 paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a
20 documented medical treatment. Upon request of the Board or its designee, Respondent shall
21 provide documentation from the licensed practitioner that the prescription for the drug was
22 legitimately issued and is a necessary part of the treatment of the Respondent. Failure to timely
23 provide such documentation shall be considered a violation of probation. Respondent shall
24 ensure that he is not in the same physical location as individuals who are using illicit substances
25 even if Respondent is not personally ingesting the drugs. Any possession or use of alcohol,
26 controlled substances, or their associated paraphernalia not supported by the documentation
27 timely provided, and/or any physical proximity to persons using illicit substances, shall be
28 considered a violation of probation.

1 20. **Prescription Coordination and Monitoring of Prescription Use.** Within thirty
2 (30) days of the effective date of this decision, Respondent shall submit to the Board, for its prior
3 approval, the name and qualifications of a single physician, nurse practitioner, physician assistant,
4 or psychiatrist of Respondent's choice, who shall be aware of the Respondent's history [with the
5 use of alcohol, controlled substances, and/or dangerous drugs, and/or of mental illness, and/or of
6 gambling addiction] and who will coordinate and monitor any prescriptions for Respondent for
7 dangerous drugs, controlled substances or mood-altering drugs. The approved practitioner shall
8 be provided with a copy of the Board's [accusation or petition to revoke probation] and decision.
9 A record of this notification must be provided to the Board upon request. Respondent shall sign a
10 release authorizing the practitioner to communicate with the Board about Respondent's
11 treatment(s). The coordinating physician, nurse practitioner, physician assistant, or psychiatrist
12 shall report to the Board on a quarterly basis for the duration of probation regarding Respondent's
13 compliance with this condition. If any substances considered addictive have been prescribed, the
14 report shall identify a program for the time limited use of any such substances. The Board may
15 require that the single coordinating physician, nurse practitioner, physician assistant or
16 psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine.
17 Should Respondent, for any reason, cease supervision by the approved practitioner, Respondent
18 shall notify the Board immediately and, within thirty (30) days of ceasing treatment, submit the
19 name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist of
20 Respondent's choice to the Board or its designee for its prior approval. Failure to timely submit
21 the selected practitioner or replacement practitioner to the Board for approval, or to ensure the
22 required reporting thereby on the quarterly reports, shall be considered a violation of probation.

23 If at any time an approved practitioner determines that Respondent is unable to practice
24 safely or independently as a pharmacist, the practitioner shall notify the Board immediately by
25 telephone and follow up by written letter within three (3) working days. Upon notification from
26 the Board or its designee of this determination, Respondent shall be automatically suspended and
27 shall not resume practice until notified by the Board that practice may be resumed.

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1 During suspension, Respondent shall not enter any pharmacy area or any portion of the
2 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
3 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices
4 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
5 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
6 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
7 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
8 and controlled substances. Respondent shall not resume practice until notified by the Board.

9 During suspension, Respondent shall not engage in any activity that requires the
10 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
11 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
12 designated representative for any entity licensed by the Board.

13 Subject to the above restrictions, Respondent may continue to own or hold an interest in
14 any licensed premises in which he holds an interest at the time this decision becomes effective
15 unless otherwise specified in this order.

16 Failure to comply with this suspension shall be considered a violation of probation.

17 21. **Supervised Practice.** During the period of probation, Respondent shall practice only
18 under the supervision of a licensed pharmacist not on probation with the Board. Upon and after
19 the effective date of this decision, Respondent shall not practice pharmacy and his license shall be
20 automatically suspended until a supervisor is approved by the Board or its designee. The
21 supervision shall be, as required by the Board or its designee, either:

22 Continuous – At least 75% of a work week

23 Substantial - At least 50% of a work week

24 Partial - At least 25% of a work week

25 Daily Review - Supervisor's review of probationer's daily activities within 24 hours

26 Within thirty (30) days of the effective date of this decision, Respondent shall have his
27 supervisor submit notification to the Board in writing stating that the supervisor has read the
28 decision in case number 3370 and is familiar with the required level of supervision as determined

1 by the Board or its designee. It shall be the Respondent's responsibility to ensure that his
2 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
3 Board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
4 acknowledgements to the Board shall be considered a violation of probation.

5 If Respondent changes employment, it shall be the Respondent's responsibility to ensure
6 that his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely
7 acknowledgement(s) to the Board. Respondent shall have his new supervisor, within fifteen (15)
8 days after employment commences, submit notification to the Board in writing stating the direct
9 supervisor and pharmacist-in-charge have read the decision in case number 3370 and is familiar
10 with the level of supervision as determined by the Board. Respondent shall not practice
11 pharmacy and his license shall be automatically suspended until the Board or its designee
12 approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to
13 submit timely acknowledgements to the Board shall be considered a violation of probation.

14 Within ten (10) days of leaving employment, Respondent shall notify the Board in writing.

15 During suspension, Respondent shall not enter any pharmacy area or any portion of the
16 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
17 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices
18 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
19 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
20 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
21 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
22 and controlled substances. Respondent shall not resume practice until notified by the Board.

23 During suspension, Respondent shall not engage in any activity that requires the
24 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
25 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
26 designated representative for any entity licensed by the Board.

27

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1 Subject to the above restrictions, Respondent may continue to own or hold an interest in
2 any licensed premises in which he holds an interest at the time this decision becomes effective
3 unless otherwise specified in this order.

4 Failure to comply with this suspension shall be considered a violation of probation.

5 **22. No Ownership of Licensed Premises.** Respondent shall not own, have any legal or
6 beneficial interest in, or serve as a manager, administrator, member, officer, director, trustee,
7 associate, or partner of any business, firm, partnership, or corporation currently or hereinafter
8 licensed by the Board. Respondent shall sell or transfer any legal or beneficial interest in any
9 entity licensed by the Board within ninety (90) days following the effective date of this decision
10 and shall immediately thereafter provide written proof thereof to the Board. Failure to timely
11 divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a
12 violation of probation.

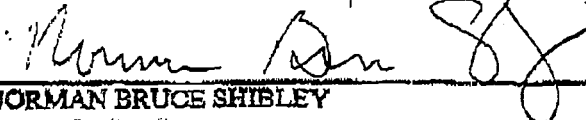
13 **23. Tolling of Suspension.** During the period of suspension, Respondent shall not leave
14 California for any period exceeding ten (10) days, regardless of purpose (including vacation).
15 Any such absence in excess of the (10) days during suspension shall be considered a violation of
16 probation. Moreover, any absence from California during the period of suspension exceeding ten
17 (10) days shall toll the suspension, i.e., the suspension shall be extended by one day for each day
18 over ten (10) days Respondent is absent from California. During any such period of tolling of
19 suspension, Respondent must nonetheless comply with all terms and conditions of probation.

20 Respondent must notify the Board in writing within ten (10) days of departure, and must
21 further notify the Board in writing within ten (10) days of return. The failure to provide such
22 notification(s) shall constitute a violation of probation. Upon such departure and return,
23 Respondent shall not resume the practice of pharmacy until notified by the Board that the period
24 of suspension has been satisfactorily completed.


25 ACCEPTANCE

26 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
27 discussed it with my attorney, Edgardo Gonzalez. I understand the stipulation and the effect it
28 will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary

1 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
2 of the Board of Pharmacy.

3
4 DATED: 10/28/10 
5 NORMAN BRUCE SHIBLEY
6 Respondent

7 I have read and fully discussed with Respondent Norman Bruce Shibley the terms and
8 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
9 I approve its form and content.

10 DATED: 10/28/10 
11 Edgardo Gonzalez
12 Attorney for Respondent

13 ENDORSEMENT

14 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
15 submitted for consideration by the Board of Pharmacy.

16 Dated: 10/28/10
17 Respectfully Submitted,
18 EDMUND G. BROWN JR.
19 Attorney General of California
20 GREGORY J. SALUTE
21 Supervising Deputy Attorney General



22 NANCY A. KAISER
23 Deputy Attorney General
24 Attorneys for Complainant

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Exhibit A

Accusation No. 3370

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

12 In the Matter of the Accusation Against:
13 **NORMAN BRUCE SHIBLEY**
45446 Genoa Avenue
14 Lancaster, CA 93534
15
16 Pharmacist License No. RPH 39528
17 Respondent.

Case No. 3370

ACCUSATION

18
19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
23 2. On or about September 4, 1985, the Board of Pharmacy (Board) issued Pharmacist
24 License No. RPH 39528 to Norman Bruce Shibley (Respondent). The Pharmacist License
25 expired on December 31, 2008, and has not been renewed.

26 **JURISDICTION**

- 27 3. This Accusation is brought before the Board, under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

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

6 5. Section 4300 permits the Board to take disciplinary action to suspend or revoke a
7 license issued by the Board.

8 6. Section 4301 states:

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

12 ...

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

18 ...

19 (k) The conviction of more than one misdemeanor or any felony involving the use,
20 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
21 combination of those substances.

22 ...

23 (l) The conviction of a crime substantially related to the qualifications, functions, and
24 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
25 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
26 substances or of a violation of the statutes of this state regulating controlled substances or
27 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
28 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

1 The board may inquire into the circumstances surrounding the commission of the crime, in order
2 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
3 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
4 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
5 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
6 of this provision. The board may take action when the time for appeal has elapsed, or the
7 judgment of conviction has been affirmed on appeal or when an order granting probation is made
8 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
9 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
10 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
11 indictment.

12 7. Section 490 states:

13 “(a) In addition to any other action that a board is permitted to take against a licensee, a
14 board may suspend or revoke a license on the ground that the licensee has been convicted of a
15 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
16 or profession for which the license was issued.

17 “(b) Notwithstanding any other provision of law, a board may exercise any authority to
18 discipline a licensee for conviction of a crime that is independent of the authority granted under
19 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
20 of the business or profession for which the licensee's license was issued.

21 “(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
22 conviction following a plea of nolo contendere. Any action that a board is permitted to take
23 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
24 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
25 made suspending the imposition of sentence, irrespective of a subsequent order under the
26 provisions of Section 1203.4 of the Penal Code.

27 “(d) The Legislature hereby finds and declares that the application of this section has been
28 made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th

1 554, and that the holding in that case has placed a significant number of statutes and regulations
2 in question, resulting in potential harm to the consumers of California from licensees who have
3 been convicted of crimes. Therefore, the Legislature finds and declares that this section
4 establishes an independent basis for a board to impose discipline upon a licensee, and that the
5 amendments to this section made by Senate Bill 797 of the 2007-08 Regular Session do not
6 constitute a change to, but rather are declaratory of, existing law.”

7 REGULATORY PROVISIONS

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

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

15 COST RECOVERY

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

20 FIRST CAUSE FOR DISCIPLINE

21 (Conviction of Substantially Related Crimes)

22 10. Respondent has subjected his license to disciplinary action under sections 4301,
23 subdivisions (k) and (l), and 490 of the Code, as defined in California Code of Regulations, title
24 16, section 1770, in that Respondent was convicted of crimes, which are substantially related to
25 the qualifications, functions, or duties of a pharmacist, as follows:

26 a. On or about June 24, 2008, after pleading nolo contendere, Respondent was convicted
27 of one misdemeanor count of violating Vehicle Code section 23152 (b) [driving while having
28 blood alcohol content greater than 0.8%], in the criminal proceeding entitled *The People of the*

1 *State of California v. Norman Bruce Shibley* (Super. Ct. Los Angeles County, 2008, No.
2 7AV10649). Respondent was sentenced to 44 days in county jail, placed on 60 months probation,
3 fined, and ordered to complete an 18 month licensed 2nd Offender Alcohol and Other Drug
4 Education and Counseling Program. The circumstances surrounding the conviction are that on or
5 about September 28, 2007, Respondent was arrested by a Lancaster Deputy Sheriff during a DUI
6 checkpoint for driving under the influence of alcohol and driving under a suspended driver's
7 license.

8 b. On or about July 16, 2007, after pleading guilty, Respondent was convicted
9 of one misdemeanor count of violating Vehicle Code section 23152 (b) [driving while having
10 blood alcohol content greater than 0.8%], in the criminal proceeding entitled *The People of the*
11 *State of California v. Norman Bruce Shibley* (Super. Ct. Orange County, 2007, No. 07CM00734).
12 Respondent was sentenced to 3 years probation, fined, and ordered to complete 20 hours of
13 community service and attend and complete a 6 month Level 2 First Offender Alcohol Program
14 and a Mother's Against Drunk Driving (MADD) Victim's Impact Panel. The circumstances
15 surrounding the conviction are that on or about November 11, 2006, Respondent was arrested by
16 the California Highway Patrol for his involvement in a solo vehicle traffic collision, and his
17 inability to perform field sobriety tests while under the influence of an alcohol beverage.

18 c. On or about September 13, 2005, after pleading guilty, Respondent was convicted
19 of three misdemeanor counts of violating 36 C.F.R. § 2.35(c) [under the influence of alcohol],
20 section 36 C.F.R. § 4.14(b) [open alcohol container], and 36 C.F.R. § 2.10(b)(10) [out of bounds
21 camping] in the United States District Court, Eastern District of California, entitled *United States*
22 *of America v. Norman Bruce Shibley* (United States District Court, Fresno County, 2005, No.
23 6:05-mj-00077-WMW). Respondent was sentenced to 6 months informal probation and fined.

24 SECOND CAUSE FOR DISCIPLINE

25 (Use of Alcohol Beverages to the Extent to be Dangerous to Oneself)

26 11. Respondent is subject to disciplinary action under section 4301, subdivision (h), of
27 the Code, on the grounds of unprofessional conduct, in that on or about June 1, 2005, November
28 11, 2006, and September 28, 2007, Respondent used and consumed of alcoholic beverages to the

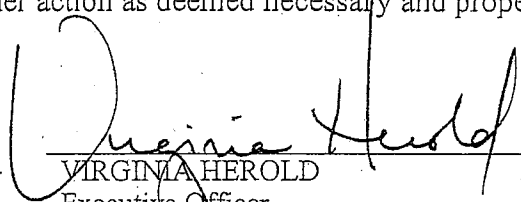
1 extent or in a manner as to be dangerous or injurious to himself or to others. Complainant refers
2 to, and by this reference incorporates, the allegation set forth above in paragraph 10, as though set
3 forth fully.

4 PRAYER

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
6 and that following the hearing, the Board issue a decision:

- 7 1. Revoking or suspending Pharmacist License No. RPH 39528, issued to Respondent;
8 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
9 enforcement of this case, pursuant to Business and Professions Code section 125.3; and
10 3. Taking such other and further action as deemed necessary and proper.

11
12 DATED: 12/8/09



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

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