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

In the Matter of the Accusation Against: **JOYCE LYNN RUTAN** P.O. BOX 4336 Stockton, CA 95204 Registered Pharmacist License No. RPH 28387 Respondent.	Case 3492

DECISION AND ORDER

The attached Stipulated Surrender of License and 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 January 11, 2012.

It is so ORDERED December 12, 2011.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____
STANLEY C. WEISSER
Board President

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Attorneys for Complainant

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

In the Matter of the Accusation Against: **JOYCE LYNN RUTAN** **P.O. Box 4336** **Stockton, CA 95204** **Registered Pharmacist License No. RPH 28387** Respondents.	Case No. 3492 OAH No. 2011040588, 2011040669 **STIPULATED SURRENDER OF LICENSE AND ORDER**

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

PARTIES

1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Elena L. Almanzo, Deputy Attorney General.

2. Joyce Lynn Rutan (Respondent) is represented in this proceeding by attorney Dennis M. Warren, whose address is 818 University Avenue, Sacramento, California 95825.

3. On or about August 10, 1973, the Board of Pharmacy issued Registered Pharmacist License Number RPH 28387 to Joyce Lynn Rutan ("Rutan"). The Registered Pharmacist License

was in full force and effect at all times relevant to the charges brought herein and will expired on October 31, 2009.

JURISDICTION

4. Accusation No. 3492 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 11, 2011. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 3492 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 3492. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

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

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

CULPABILITY

8. Respondent admits that, at an administrative hearing, complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 3492. Respondent agrees that cause exists for discipline and hereby surrenders her Registered Pharmacist License Number RPH 28387 for the Board's formal acceptance.

9. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Pharmacist license without further process.

RESERVATION

10. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board of Pharmacy is involved, and shall not be admissible in any other criminal, civil proceeding, or administrative proceeding not involving the Board of Pharmacy.

CONTINGENCY

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

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

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

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

ORDER

IT IS HEREBY ORDERED that issued Registered Pharmacist License Number RPH 28387 to Joyce Lynn Rutan is surrendered and accepted by the Board of Pharmacy.

1. The surrender of Respondent's Registered Pharmacist License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board of Pharmacy.

2. Respondent shall lose all rights and privileges as a pharmacist in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.

4. If she ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 3492 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.

5. If and when Respondent's license is reissued, she shall be jointly and severably responsible with Ronald Juliana to pay to the Board's costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of $64,944.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the Board from reducing the amount of cost recovery upon reinstatement of the license.

6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 3492 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

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

DATED: 9/9/2011

JOYCE LYNN RUTAN
Respondent

I have read and fully discussed with Respondent Ronald Juliana the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 9/9/2011

DENNIS M. WARREN
Attorney for Respondent

ENDORSEMENT

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

Dated: 9/12/2011

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General

ELENA L. ALMANZO
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 3492

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BEFORE THE
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In the Matter of the Accusation Against: **JOYCE LYNN RUTAN** **P.O. Box 4336** **Stockton, CA 95204** **Registered Pharmacist License No. RPH 28387** Respondent.	Case No. 3492 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about August 10, 1973, the Board of Pharmacy issued Registered Pharmacist License Number RPH 28387 to Joyce Lynn Rutan ("Rutan"). The Registered Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2012, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 4300 of the Code states in pertinent part:

"(a) Every license issued may be suspended or revoked.

"(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

"(3) Suspending his or her right to practice for a period not exceeding one year.

"(4) Revoking his or her license.

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

5. Section 4301 of the Code states in pertinent 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:

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

"(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.

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

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

6. 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 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

7. Section 4060 of the Code states:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7,or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer."

"Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices."

8. Health and Safety Code section 11377, subd. (a) provides;

"(a) Except as authorized by law and as otherwise provided in subdivision (b) or Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance which is (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in a county jail for a period of not more than one year or in the state prison."

9. Health and Safety Code section 11350, subd. (a) provides;

"(a) Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) or (c), or

paragraph(1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison."

10. Section 118 of the Code states in pertinent part:

A(b) 'The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground."

11. On or about November 8, 2007, a search warrant was served at the residence of Ronald Juliana and Joyce Rutan located at 401 Buena Vista Drive, Coalinga, California. The search uncovered several controlled substances in quantities and labeled in a manner that were not for individual consumption. On that same date a search warrant uncovered controlled substances at 4301 3 Hale Ranch, Fair Oaks, California, also owned by Ronald Juliana and Joyce Rutan, or their relatives.

DRUGS

12. "Dilaudid," a brand of hydromorphone, is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(K).

13. "Tylenol with Codeine No. 3" is a compound consisting of 30 mg. of codeine, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(2), and 300 mg. acetaminophen per tablet.

14. "Vicodin" is a compound consisting of 5 mg.hydrocodone bitartrate also known as dihydrocodeinone, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4), and 500 mg. acetaminophen per tablet.

15. "Xanax" is a brand of Alprazolam, is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d) (1).

16. "Ativan," a brand of lorazepam, is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(16).

17. "Librium," a brand name for chlordiazepoxide, is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(5).

18. "Dalmane," a brand of flurazepam hydrochloride, is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(14).

19. "Dianabol", a brand name of Methandrostenolone, is a Schedule III controlled substance as designated by Health and Safety Code section 11056(f) (15).

20. "Demerol," a brand of meperidine hydrochloride, a derivative of pethidine, is a Schedule II controlled substance as designated by Health and Safety Code section 11055(c)(17).

21. "Methadone" is a controlled substance as designated by Health And Safety Code section 11055 (c)(14)

22. "Percodan," a brand of oxycodone, is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(N). Each tablet contains 4.50 mg. oxycodone hydrochloride, 0.38 mg. oxycodone terephthalate, and 325 mg. aspirin.

23. "Phentermine," is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(f)(4).

24. "Restoril," a brand of temazepam, is a Schedule IV controlled substance under Business and Professions Code section 11057(d)(29).

25. "Valium," a brand of diazepam, is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(9).

FIRST CAUSE FOR DISCIPLINE
(Unprofessional Conduct)

26. Respondent Rutan is subject to disciplinary action under Code section 4301 (f) in that during a search at 401 Buena Vista Drive, Coalinga, California, the following schedule drugs were found which appeared to be rightfully owned by another person or facility:

1. Plastic bag with "Pleasant Valley State Prison" ("PVSP") containing 832 Welbutrin 200 mg. tablets and 1,625 Welbutrin 300 mg. tablets

2. Plastic bag with PVSP label containing 140 Doxyclycline 100 mg. capsules.

27. Respondent Rutan is subject to disciplinary action under Code section 4301 (f) in that at a search of the residence located at 4301 Hale Ranch, Fair Oaks, California the following schedule drugs were found which appeared to be rightfully owned by another person or facility:

1. Plastic bag with PVSP label containing 255 Atorvastatin.

2. Plastic bottle with "Doctors Hospital of Montclair" label containing Tussionex syrup.

3. Bottle of Diazepam tablets with Navel Medical Center label.

4. Kaiser Foundation Rx bottle #621809778 filled for G. K. with Norco 10/325.

5. Kaiser Foundation Hospital stock bottle of 40 tablets of Acetaminophen

6. Kaiser Foundation Rx bottle #6121501464 filled for C. B. with Aminodarone 200mg.

7. Kaiser Foundation Rx bottle #6121723833 filled for C. C. for Respiradone 1mg.

8. Plastic bottle labeled Naval Medical Center Pharmacy filled with Vicodin tablets.

9. Naval Medical Center Pharmacy Rx bottle #H88236258 for W. M. with Diazepam.

10. Naval Medical Center bottle filled with Lortabs

11. Kaiser Fonsation Rx bottle #6121802856 filled for V. L. with Protonix.

SECOND CAUSE FOR DISCIPLINE
(Unlawful Possession Controlled Substances)

28. Respondent Rutan is subject to disciplinary action under Code section 4060 following a search warrant executed at 401 Buena Vista Drive, Coalinga, California, she was found in possession of the following controlled substances:

1. Two Clonazepam 1 mg.

2. 18 Acetaminophen with Codeine #3

3. 31 Tylenol with Codeine #3

29. Respondent Rutan is subject to disciplinary action under Code section 4060 following a search warrant executed at 4301 Hale Ranch, Fair Oaks, California, she was found in possession of the following controlled substances:

1. Total of 682 tablets of Diazepam
2. Total of 256 tablets of Tylenol with Codeine #3
3. Total of 658 tablets of Xanax
4. Total of 419 tablets of Vicodin
5. 41 tablets of Lortabs
6. 40 Ambien
7. Total of 1, 171 tablets of Ativan
8. Total of 841 capsules of Restoril
9. Total of 815 capsules of Darvocet N
10. 8 Morphine suppositories
11. 22 capsules of Phentermine 30 mg
12. 9 tablets of Codeine.
13. Total of 466 Librium capsules
14. Total of 51 grams Marijuana
15. 190 Dalmane
16. 214 Bromazepam
17. 14 Quaaludes
18. 47 Ampoules Meperidine
19. 16 Dilaudid ampoules
20. 194 tablets of Dianabol
21. Total of 300 tablets of Methadone
22. 113 tablets of Percodan
23. Bottle of Tussionex
24. 13 tablets of Percocet

25. 40 tablets Talwin

26. Total 165 tablets of Clonazepam

27. Pint bottle of Actifed with Codeine

THIRD CAUSE FOR DISCIPLINE
(Unlawful Possession Controlled substances)

30. Respondent Rutan is subject to disciplinary action under Code section 4301 (j) in conjunction with Health and Safety Code section 11377, subd. (a) in that following a search warrant executed at 401 Buena Vista Drive, Coalinga, California, she was found to be in possession of the following controlled substances:

1. Two Clonazepam 1 mg.

31. Respondent Rutan is subject to disciplinary action under Code section Health and Safety Code section 11377, subd. (a) in that following a search warrant executed at 4301 Hale Ranch, Fair Oaks, California, she was found to be in possession of the following controlled substances:

1. Total of 682 tablets of Diazepam
2. Total of 658 tablets of Xanax
3. 40 Ambien
4. Total of 1, 171 tablets of Ativan
5. Total of 841 capsules of Restoril
6. Total of 815 capsules of Darvocet N
7. 22 capsules of Phentermine 30 mg
8. Total of 466 Librium capsules
9. 190 Dalmane
10. 214 Bromazepam
11. Total 165 tablets of Clonazepam

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FOURTH CAUSE FOR DISCIPLINE
(Unlawful Possession Narcotics)

32. Respondent Rutan is subject to disciplinary action under Code section 4301 (j) in conjunction with Health and Safety Code section 11350(a) in that following a search warrant executed at 401 Buena Vista Drive, Coalinga, California, she was found in possession of the following narcotics:

1. 18 Acetaminophen with Codeine #3
2. 31 Tylenol with Codeine #3

33. Respondent Rutan is subject to disciplinary action under Code section 4301 (j) in conjunction with Health and Safety Code section 11350(a) in that following a search warrant executed at 401 Buena Vista Drive, Coalinga, California, they were found in possession of the following narcotics:

1. 256 tablets of Tylenol with Codeine #3
2. 419 tablets of Vicodin
3. 41 tablets of Lortabs
4. 8 Morphine suppositories
5. 9 tablets of Codeine
6. 47 Ampoules of Merperidine
7. 16 Dialudid Ampoules
8. Total of 300 tablets of Methadone
9. 113 tablets of Percodan
10. Bottle of Tussionex
11. 13 tablets of Percocet
12. Pint of Actifed with Codeine

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FIFTH CAUSE FOR DISCIPLINE
(Unlawful Possession Narcotics)

34. Respondents Rutan is subject to disciplinary action under Code section 4301 (f) and (l) in that on or about September 28, 2010, in *People v. Ronald Juliana and Joyce Lynn Rutan*, Sacramento Superior Court, Case No. 10F02277, respondents were convicted on their plea of nolo contendere to a violation of Revenue and Taxation code section 19701 (a) (repeatedly over a period of two years failing to file a tax return as required.) A crime substantially related to the practice of a pharmacist.

PRAYER

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

1. Revoking or suspending Registered Pharmacist License Number RPH 28387, issued to Joyce Lynn Rutan;

2. Ordering Joyce Rutan 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; and

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

DATED: 1/6/11

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

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