

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

In the Matter of the Accusation Against:

Case No. 3681

STUART BLAKE TOMLIN
3653 Mammoth Cave Circle
Stockton, CA 95209

Pharmacist License No. RPH 42645

Respondent.

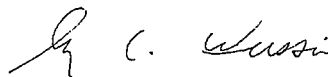
DECISION AND ORDER

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 December 31, 2010.

It is so ORDERED on December 1, 2010.

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
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 ARTHUR D. TAGGART
Supervising Deputy Attorney General
4 State Bar No. 083047
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5339
Facsimile: (916) 327-8643
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 **STUART BLAKE TOMLIN**
13 **3653 Mammoth Cave Circle**
Stockton, CA 95209
14 **Pharmacist License No. RPH 42645,**
15 Respondent.

Case No. 3681
STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

16 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
17 entitled proceedings that the following matters are true:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
20 She brought this action solely in her official capacity and is represented in this matter by Edmund
21 G. Brown Jr., Attorney General of the State of California, by Arthur D. Taggart, Supervising
22 Deputy Attorney General.
23 2. Respondent Stuart Blake Tomlin (Respondent) is representing himself in this
24 proceeding and has chosen not to exercise his right to be represented by counsel.
25 3. On or about August 4, 1989, the Board of Pharmacy issued Pharmacist License No.
26 RPH 42645 to Stuart Blake Tomlin (Respondent). The Pharmacist License was in full force and
27

1 effect at all times relevant to the charges brought in Accusation No. 3681 and will expire on
2 November 30, 2010, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 3681 was filed before the Board of Pharmacy (Board), Department of
5 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
6 statutorily required documents were properly served on Respondent on August 11, 2010.
7 Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation
8 No. 3681 is attached as exhibit A and incorporated herein by reference.

9 **ADVISEMENT AND WAIVERS**

10 5. Respondent has carefully read, and understands the charges and allegations in
11 Accusation No. 3681. Respondent has also carefully read, and understands the effects of this
12 Stipulated Settlement and Disciplinary Order.

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

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

22 **CULPABILITY**

23 8. Respondent admits the truth of each and every charge and allegation in Accusation
24 No. 3681.

25 9. Respondent agrees that his Pharmacist License is subject to discipline and he agrees
26 to be bound by the Board of Pharmacy (Board's) probationary terms as set forth in the
27 Disciplinary Order below.
28

1 CONTINGENCY

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

23 DISCIPLINARY ORDER

24 IT IS HEREBY ORDERED that Pharmacist License No. RPH 42645 issued to Respondent
25 Stuart Blake Tomlin (Respondent) is revoked. However, the revocation is stayed and Respondent
26 is placed on probation for five (5) years on the following terms and conditions.

27 Actual Suspension. As part of probation, respondent is suspended from the practice of
28 pharmacy for seven (7) days beginning the effective date of this decision.

1 **Obey All Laws**

2 Respondent shall obey all state and federal laws and regulations.

3 Respondent shall report any of the following occurrences to the board, in writing, within
4 seventy-two (72) hours of such occurrence:

- 5 • an arrest or issuance of a criminal complaint for violation of any provision of the
6 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
7 substances laws
- 8 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
9 criminal complaint, information or indictment
- 10 • a conviction of any crime
- 11 • discipline, citation, or other administrative action filed by any state or federal agency
12 which involves respondent's Pharmacist's license or which is related to the practice
13 of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or
14 charging for any drug, device or controlled substance.

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

16 **1. Report to the Board**

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

25 **2. Interview with the Board**

26 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
27 with the board or its designee, at such intervals and locations as are determined by the board or its
28 designee. Failure to appear for any scheduled interview without prior notification to board staff,

1 or failure to appear for two (2) or more scheduled interviews with the board or its designee during
2 the period of probation, shall be considered a violation of probation.

3 **3. Cooperate with Board Staff**

4 Respondent shall cooperate with the board's inspection program and with the board's
5 monitoring and investigation of respondent's compliance with the terms and conditions of his
6 probation. Failure to cooperate shall be considered a violation of probation.

7 **4. Continuing Education**

8 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
9 pharmacist as directed by the board or its designee.

10 **5. Notice to Employers**

11 During the period of probation, respondent shall notify all present and prospective
12 employers of the decision in case number 3681 and the terms, conditions and restrictions imposed
13 on respondent by the decision, as follows:

14 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
15 respondent undertaking any new employment, respondent shall cause his direct supervisor,
16 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
17 tenure of employment) and owner to report to the board in writing acknowledging that the listed
18 individual(s) has/have read the decision in Case Number 3681, and terms and conditions imposed
19 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)
20 submit timely acknowledgment(s) to the board.

21 If respondent works for or is employed by or through a pharmacy employment service,
22 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
23 licensed by the board of the terms and conditions of the decision in Case Number 3681 in
24 advance of the respondent commencing work at each licensed entity. A record of this notification
25 must be provided to the board upon request.

26 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
27 (15) days of respondent undertaking any new employment by or through a pharmacy employment
28 service, respondent shall cause his direct supervisor with the pharmacy employment service to

1 report to the board in writing acknowledging that he has read the decision in Case Number 3681
2 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
3 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

4 Failure to timely notify present or prospective employer(s) or to cause that/those
5 employer(s) to submit timely acknowledgments to the board shall be considered a violation of
6 probation.

7 "Employment" within the meaning of this provision shall include any
8 full-time, part-time, temporary, relief or pharmacy management service as a
9 pharmacist or any position for which a pharmacist license is a requirement or
10 criterion for employment, whether the respondent is an employee, independent
11 contractor or volunteer.

12 **6. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
13 **Designated Representative-in-Charge, or Serving as a Consultant**

14 During the period of probation, respondent shall not supervise any intern pharmacist, be the
15 pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board
16 nor serve as a consultant unless otherwise specified in this order. Assumption of any such
17 unauthorized supervision responsibilities shall be considered a violation of probation.

18 **7. Reimbursement of Board Costs**

19 As a condition precedent to successful completion of probation, respondent shall pay to the
20 board its costs of investigation and prosecution in the amount of Three Thousand Five Hundred
21 Ninety-Five Dollars and Fifty Cents (\$3,595.50). Respondent shall be permitted to pay these
22 costs in a payment plan approved by the Board, with payments to be completed no later than three
23 (3) months prior to the end of the probation term.

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

27 The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to
28 reimburse the board its costs of investigation and prosecution.

1 **8. Probation Monitoring Costs**

2 Respondent shall pay any costs associated with probation monitoring as determined by the
3 board each and every year of probation. Such costs shall be payable to the board on a schedule as
4 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
5 be considered a violation of probation.

6 **9. Status of License**

7 Respondent shall, at all times while on probation, maintain an active, current license with
8 the board, including any period during which suspension or probation is tolled. Failure to
9 maintain an active, current license shall be considered a violation of probation.

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

14 **10. License Surrender While on Probation/Suspension**

15 Following the effective date of this decision, should respondent cease practice due to
16 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
17 respondent may tender his license to the board for surrender. The board or its designee shall have
18 the discretion whether to grant the request for surrender or take any other action it deems
19 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent
20 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
21 record of discipline and shall become a part of the respondent's license history with the board.

22 Upon acceptance of the surrender, respondent shall relinquish his pocket and wall license to
23 the board within ten (10) days of notification by the board that the surrender is accepted.

24 Respondent may not reapply for any license from the board for three (3) years from the effective
25 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
26 of the date the application for that license is submitted to the board, including any outstanding
27 costs.

28

1 **11. Notification of a Change in Name, Residence Address, Mailing Address or**
2 **Employment**

3 Respondent shall notify the board in writing within ten (10) days of any change of
4 employment. Said notification shall include the reasons for leaving, the address of the new
5 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
6 shall further notify the board in writing within ten (10) days of a change in name, residence
7 address, mailing address, or phone number.

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

10 **12. Tolling of Probation**

11 Except during periods of suspension, respondent shall, at all times while on probation, be
12 employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any
13 month during which this minimum is not met shall toll the period of probation, i.e., the period of
14 probation shall be extended by one month for each month during which this minimum is not met.
15 During any such period of tolling of probation, respondent must nonetheless comply with all
16 terms and conditions of probation.

17 Should respondent, regardless of residency, for any reason (including vacation) cease
18 practicing as a pharmacist for a minimum of 40 hours per calendar month in California,
19 respondent must notify the board in writing within ten (10) days of the cessation of practice, and
20 must further notify the board in writing within ten (10) days of the resumption of practice. Any
21 failure to provide such notification(s) shall be considered a violation of probation.

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

25 "Cessation of practice" means any calendar month during which respondent is
26 not practicing as a pharmacist for at least 40 hours, as defined by Business and
27 Professions Code section 4000 et seq. "Resumption of practice" means any calendar
28

1 month during which respondent is practicing as a pharmacist for at least 40 hours as a
2 pharmacist as defined by Business and Professions Code section 4000 et seq.

3 **13. Violation of Probation**

4 If a respondent has not complied with any term or condition of probation, the board shall
5 have continuing jurisdiction over respondent, and probation shall automatically be extended, until
6 all terms and conditions have been satisfied or the board has taken other action as deemed
7 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
8 to impose the penalty that was stayed.

9 If respondent violates probation in any respect, the board, after giving respondent notice
10 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
11 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
12 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
13 a petition to revoke probation or an accusation is filed against respondent during probation, the
14 board shall have continuing jurisdiction and the period of probation shall be automatically
15 extended until the petition to revoke probation or accusation is heard and decided.

16 **14. Completion of Probation**

17 Upon written notice by the board or its designee indicating successful completion of
18 probation, respondent's license will be fully restored.

19 **15. Suspension**

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

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

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

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

9 **16. Pharmacists Recovery Program (PRP)**

10 Within thirty (30) days of the effective date of this decision, respondent shall contact the
11 Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll,
12 successfully participate in, and complete the treatment contract and any subsequent addendums as
13 recommended and provided by the PRP and as approved by the board or its designee. The costs
14 for PRP participation shall be borne by the respondent.

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

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

21 Probation shall be automatically extended until respondent successfully completes the PRP.
22 Any person terminated from the PRP program shall be automatically suspended by the board.
23 Respondent may not resume the practice of pharmacy until notified by the board in writing.

24 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
25 licensed practitioner as part of a documented medical treatment shall result in the automatic
26 suspension of practice by respondent and shall be considered a violation of probation.

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 any
14 licensed premises in which he holds an interest at the time this decision becomes effective unless
15 otherwise specified in this order.

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

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

20 17. **Random Drug Screening**

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

1 of probation. Upon request of the board or its designee, respondent shall provide documentation
2 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
3 a necessary part of the treatment of the respondent. Failure to timely provide such documentation
4 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
5 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
6 shall be considered a violation of probation and shall result in the automatic suspension of
7 practice of pharmacy by respondent. Respondent may not resume the practice of pharmacy until
8 notified by the board in writing.

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

17 During suspension, respondent shall not engage in any activity that requires the
18 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
19 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
20 designated representative for any entity licensed by the board.

21 Subject to the above restrictions, respondent may continue to own or hold an interest in any
22 licensed premises in which he holds an interest at the time this decision becomes effective unless
23 otherwise specified in this order.

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

25 **18. Abstain from Drugs and Alcohol Use**

26 Respondent shall completely abstain from the possession or use of alcohol, controlled
27 substances, dangerous drugs and their associated paraphernalia except when the drugs are
28 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon

1 request of the board or its designee, respondent shall provide documentation from the licensed
2 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the
3 treatment of the respondent. Failure to timely provide such documentation shall be considered a
4 violation of probation. Respondent shall ensure that he is not in the same physical location as
5 individuals who are using illicit substances even if respondent is not personally ingesting the
6 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
7 not supported by the documentation timely provided, and/or any physical proximity to persons
8 using illicit substances, shall be considered a violation of probation.

9 **19. Prescription Coordination and Monitoring of Prescription Use**

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

1 replacement practitioner to the board for approval, or to ensure the required reporting thereby on
2 the quarterly reports, shall be considered a violation of probation.

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

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

16 During suspension, respondent shall not engage in any activity that requires the
17 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
18 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
19 designated representative for any entity licensed by the board.

20 Subject to the above restrictions, respondent may continue to own or hold an interest in any
21 licensed premises in which he holds an interest at the time this decision becomes effective unless
22 otherwise specified in this order.

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

24 **20. Community Services Program**

25 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
26 board or its designee, for prior approval, a community service program in which respondent shall
27 provide free health-care related services on a regular basis to a community or charitable facility or
28 agency for at least 200 hours by the end of the third year of probation. Within thirty (30) days of

1 board approval thereof, respondent shall submit documentation to the board demonstrating
2 commencement of the community service program. A record of this notification must be
3 provided to the board upon request. Respondent shall report on progress with the community
4 service program in the quarterly reports. Failure to timely submit, commence, or comply with the
5 program shall be considered a violation of probation.

6 **21. Supervised Practice**

7 During the period of probation, respondent shall practice only under the supervision of a
8 licensed pharmacist not on probation with the board. Upon and after the effective date of this
9 decision, respondent shall not practice pharmacy and his license shall be automatically suspended
10 until a supervisor is approved by the board or its designee. The supervision shall be, as required
11 by the board or its designee, either:

12 Continuous – At least 75% of a work week

13 Substantial - At least 50% of a work week

14 Partial - At least 25% of a work week

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

16 Within thirty (30) days of the effective date of this decision, respondent shall have his
17 supervisor submit notification to the board in writing stating that the supervisor has read the
18 decision in case number 3681 and is familiar with the required level of supervision as determined
19 by the board or its designee. It shall be the respondent's responsibility to ensure that his
20 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
21 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
22 acknowledgements to the board shall be considered a violation of probation.

23 If respondent changes employment, it shall be the respondent's responsibility to ensure that his
24 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
25 board. Respondent shall have his new supervisor, within fifteen (15) days after employment
26 commences, submit notification to the board in writing stating the direct supervisor and
27 pharmacist-in-charge have read the decision in case number 3681 and is familiar with the level of
28 supervision as determined by the board. Respondent shall not practice pharmacy and his license

1 shall be automatically suspended until the board or its designee approves a new supervisor.
2 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
3 acknowledgements to the board shall be considered a violation of probation.

4 Within ten (10) days of leaving employment, respondent shall notify the board in writing.

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

13 During suspension, respondent shall not engage in any activity that requires the
14 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
15 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
16 designated representative for any entity licensed by the board.

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

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

21 **22. No Ownership of Licensed Premises**

22 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
23 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
24 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
25 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
26 days following the effective date of this decision and shall immediately thereafter provide written
27 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
28 documentation thereof shall be considered a violation of probation.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

23. Separate File of Records

Respondent shall maintain and make available for inspection a separate file of all records pertaining to the acquisition or disposition of all controlled substances. Failure to maintain such file or make it available for inspection shall be considered a violation of probation.

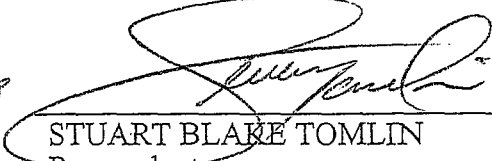
24. Ethics Course

Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll in a course in ethics, at respondent's expense, approved in advance by the board or its designee. Failure to initiate the course during the first year of probation, and complete it within the second year of probation, is a violation of probation.

Respondent shall submit a certificate of completion to the board or its designee within five days after completing the course.

ACCEPTANCE

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

DATED: 10/8/2018 
STUART BLAKE TOMLIN
Respondent

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ENDORSEMENT

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

Dated: 10/22/10

EDMUND G. BROWN JR.
Attorney General of California
ALFREDO TERRAZAS
Senior Assistant Attorney General



ARTHUR D. TAGGART
Supervising Deputy Attorney General
Attorneys for Complainant

SA2010100742
10619499.doc

Exhibit A

Accusation No. 3681

1 EDMUND G. BROWN JR.
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 JEFFREY M. PHILLIPS
Deputy Attorney General
4 State Bar No. 154990
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-6292
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. AC 3681

12 **STUART BLAKE TOMLIN**
13 **3653 Mammoth Cave Circle**
Stockton, CA 95209

A C C U S A T I O N

14 **Pharmacist License No. RPH 42645**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about August 4, 1989, the Board of Pharmacy issued Pharmacist License
22 Number RPH 42645 to Stuart Blake Tomlin (Respondent). The Pharmacist License was in full
23 force and effect at all times relevant to the charges brought herein and will expire on November
24 30, 2010, unless renewed.

25 **JURISDICTION**

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

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

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

8 5. Section 4301 of the Code states, in pertinent part:

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

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

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

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

26 //

27 //

28

1 injurious to himself, as alleged in paragraph nine (9).

2
3 **THIRD CAUSE FOR DISCIPLINE**
(Unlawful Possession of a Controlled Substance)

4 13. Respondent is subject to disciplinary action under sections 4301(j) and (o) in that
5 Respondent violated the statutes of this state regulating controlled substances and dangerous
6 drugs, as alleged in paragraph nine (9).

7
8 **FOURTH CAUSE FOR DISCIPLINE**
(Possession of a Controlled Substance without a Prescription)

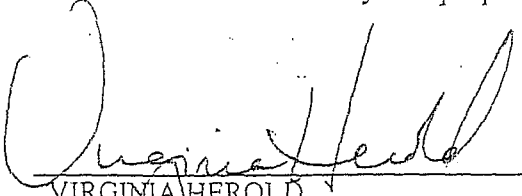
9 14. Respondent is subject to disciplinary action under section 4060 and Health and Safety
10 Code section 11350(a) in that Respondent was in possession of a narcotic controlled substance
11 without a prescription, as alleged in paragraph nine (9).

12 **PRAYER**

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

- 15 1. Revoking or suspending Pharmacist License Number RPH 42645, issued to Stuart
16 Blake Tomlin
- 17 2. Ordering Respondent to pay the Board of Pharmacy the reasonable costs of the
18 investigation and enforcement of this case, pursuant to Business and Professions Code section
19 125.3;
- 20 3. Taking such other and further action as deemed necessary and proper.

21
22
23 DATED: 8/4/10


24 VIRGINIA HEROLD
25 Executive Officer
26 Board of Pharmacy
27 Department of Consumer Affairs
28 State of California
Complainant

SA2010100742
accusation.rtf

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL
(Separate Mailings)

Case Name: In the Matter of the Accusation Against: **STUART BLAKE TOMLIN**

Board of Pharmacy Case No.: AC 3681

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On August 11, 2010, I served the attached **ACCUSATION, STATEMENT TO RESPONDENT; REQUEST FOR DISCOVERY; NOTICE OF DEFENSE (2 blank copies) and DISCOVERY GUIDELINES** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **ACCUSATION, STATEMENT TO RESPONDENT; REQUEST FOR DISCOVERY; NOTICE OF DEFENSE (2 blank copies) and DISCOVERY GUIDELINES** was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

Stuart Blake Tomlin
3653 Mammoth Cave Circle
Stockton, CA 95209

CERTIFIED MAIL NO.:

Certified Article Number

7160 3901 9848 9079 3161

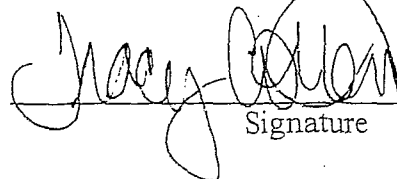
SENDER'S RECORD

Courtesy copy via U.S. Mail only:

Virginia Herold
Executive Officer
Board of Pharmacy
1625 North Market Boulevard, Suite N-219
Sacramento, CA 95834

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 11, 2010, at Sacramento, California.

Tracy Cortez
Declarant


Signature

7160 3901 9848 9079 3161

TO:
Stuart Blake Tomlin
3653 Mammoth Cave Circle
Stockton, CA 95209

SENDER: Jeffrey M. Phillips

REFERENCE: SA2010100742

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	
	Certified Fee	
	Return Receipt Fee	
	Restricted Delivery	
	Total Postage & Fees	

US Postal Service Receipt for Certified Mail <small>No Insurance Coverage Provided Do Not Use for International Mail</small>	POSTMARK OR DATE
---	------------------