

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

In the Matter of the Accusation Against:

Case No. 3890

GARY VICTOR MANTESE

300 Juniper Ridge #266
Coalinga, CA 93210

Pharmacist License No. RPH 47841

Respondent.

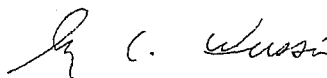
DECISION AND ORDER

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 September 5, 2011.

It is so ORDERED on August 5, 2011.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
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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. 3890

11 **GARY VICTOR MANTESE**
12 **300 Juniper Ridge # 266**
13 **Coalinga, CA 93210**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

14 **Pharmacist License No. RPH 47841**

15 Respondent.

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

21
22 PARTIES

23 1. Virginia Herold (Complainant), Executive Officer of the Board of Pharmacy, brought
24 this action solely in her official capacity and is represented in this matter by Kamala D. Harris,
25 Attorney General of the State of California, by Joshua A. Room, Deputy Attorney General.

26 2. Respondent Gary Victor Mantese (Respondent) is representing himself in this
27 proceeding and has chosen not to exercise his right to be represented by counsel.
28

1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 3890. Respondent agrees that his Pharmacist License is subject to discipline and he agrees to
4 be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

5
6 CONTINGENCY

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

16 10. The parties understand and agree that facsimile copies of this stipulation, including
17 facsimile signatures thereto, shall have the same force and effect as the originals.

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

24 12. In consideration of the foregoing, the parties agree that the Board may, without
25 further notice or formal proceeding, issue and enter the following Disciplinary Order:

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1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacist License No. RPH 47841, issued to Gary Victor
3 Mantese (Respondent), is revoked. However, the revocation is stayed and Respondent is placed
4 on probation for three (3) years on the following terms and conditions.

5 **1. Obey All Laws**

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

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

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

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

20 **2. Report to the Board**

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

1 **3. Interview with the Board**

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

7 **4. Cooperate with Board Staff**

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

11 **5. Continuing Education**

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

14 **6. Notice to Employers**

15 During the period of probation, respondent shall notify all present and prospective
16 employers of the decision in case number 3890 and the terms, conditions and restrictions imposed
17 on respondent by the decision, as follows:

18 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
19 respondent undertaking any new employment, respondent shall cause his direct supervisor,
20 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
21 tenure of employment) and owner to report to the board in writing acknowledging that the listed
22 individual(s) has/have read the decision in case number 3890, and terms and conditions imposed
23 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)
24 submit timely acknowledgment(s) to the board. If respondent works for or is employed by or
25 through a pharmacy employment service, respondent must notify his direct supervisor,
26 pharmacist-in-charge, and owner at every entity licensed by the board of the terms and conditions
27 of the decision in case number 3890 in advance of the respondent commencing work at each
28 licensed entity. A record of this notification must be provided to the board upon request.

1 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
2 (15) days of respondent undertaking any new employment by or through a pharmacy employment
3 service, respondent shall cause his direct supervisor with the pharmacy employment service to
4 report to the board in writing acknowledging that he has read the decision in case number 3890
5 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
6 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

7 Failure to timely notify present or prospective employer(s) or to cause employer(s) to
8 submit timely acknowledgments to the board shall be considered a violation of probation.

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

13 **7. Prohibitions on Supervision and Consultancy**

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 unauthorized
17 supervision or consultant responsibilities shall be considered a violation of probation.

18 **8. 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 \$2,365.00.

21 Absent prior written approval by the Board or its designee, respondent may not successfully
22 complete probation until this amount is paid in full. Respondent shall be permitted to pay these
23 costs in a payment plan approved by the Board or its designee, so long as full payment is
24 completed no later than thirty (30) months after the effective date of this decision. There shall be
25 no deviation from this schedule absent prior written approval by the Board or its designee.
26 Failure to pay costs by the deadline(s) as directed shall be considered a violation of 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 **9. 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 **10. 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 **11. No Ownership of Licensed Premises**

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

22 **12. Notification of a Change in Employment, Name, Address(es), or Phone(s)**

23 Respondent shall notify the board in writing within ten (10) days of any change of
24 employment. Said notification shall include the reasons for leaving, the address of the new
25 employer, the name of the supervisor and owner, and the work schedule if known.

26 Respondent shall further notify the board in writing within ten (10) days of a change in
27 name, residence address, mailing address, or phone number.

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

3 **13. Supervised Practice**

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

9 Continuous – At least 75% of a work week

10 Substantial - At least 50% of a work week

11 Partial - At least 25% of a work week

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

13 Within thirty (30) days of the effective date of this decision, Respondent shall have his
14 supervisor submit notification to the board in writing stating that the supervisor has read the
15 decision in case number 3890 and is familiar with the required level of supervision as determined
16 by the board or its designee. It shall be the Respondent's responsibility to ensure that his
17 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
18 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
19 acknowledgements to the board shall be considered a violation of probation.

20 If Respondent changes employment, it shall be the Respondent's responsibility to ensure
21 that his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely
22 acknowledgement(s) to the board. Respondent shall have his new supervisor, within fifteen (15)
23 days after employment commences, submit notification to the board in writing stating the direct
24 supervisor and pharmacist-in-charge have read the decision in case number 3890 and is/are
25 familiar with the level of supervision as determined by the board. Respondent shall not practice
26 pharmacy and his license shall be automatically suspended until the board or its designee
27 approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to
28 submit timely acknowledgements to the board shall be considered a violation of probation.

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

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

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

14 Failure to comply with any such suspension shall be considered a violation of probation.

15 **14. Pharmacists Recovery Program (PRP)**

16 Within thirty (30) days of the effective date of this decision, respondent shall contact the
17 Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll,
18 successfully participate in, and complete the treatment contract and any subsequent addendums as
19 recommended and provided by the PRP and as approved by the board or its designee. The costs
20 for PRP participation shall be borne by the respondent. If respondent is currently enrolled in the
21 PRP, said participation is now mandatory and as of the effective date of this decision is no longer
22 considered a self-referral under Business and Professions Code section 4362(c)(2). Respondent
23 shall participate in and complete his contract and any subsequent addendums with the PRP.

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

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

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

4 Respondent may not resume the practice of pharmacy until notified by the board in writing.

5 During any such suspension, respondent shall not enter any pharmacy area or any portion of
6 the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor
7 of drugs licensed by the board, or any manufacturer, or where dangerous drugs and devices or
8 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 any such 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 Failure to comply with any such suspension shall be considered a violation of probation.

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

21 **15. Abstain from Drug and Alcohol Possession or Use**

22 Respondent shall fully abstain from possession or use of alcohol, controlled substances,
23 dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed
24 by a licensed practitioner as part of a documented medical treatment. Upon request of the board
25 or its designee, respondent shall provide documentation from the licensed practitioner that a drug
26 was legitimately prescribed and is a necessary part of respondent's treatment. Failure to timely
27 provide such documentation shall be considered a violation of probation.

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1 Respondent shall ensure he is not in the same physical location as individuals who are using
2 illicit substances even if Respondent is not personally ingesting a drug. Any possession or use of
3 alcohol, controlled substances, or paraphernalia not supported by timely documentation, and/or
4 any proximity to persons using illicit substances, shall be considered a violation of probation.

5 **16. Random Drug Screening**

6 Respondent, at his own expense, shall participate in random testing, including but not
7 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
8 screening program for the detection of alcohol, narcotics, hypnotics, dangerous drugs or
9 controlled substances as the board or its designee may direct. Respondent may be required to
10 participate in testing for the entire probation period and frequency of testing will be determined
11 by the board or its designee. At all times, Respondent shall fully cooperate with the board or its
12 designee, and shall, when directed, submit to such tests and samples.

13 Failure to timely submit to testing as directed shall be considered a violation of probation.
14 Upon request of the board or its designee, Respondent shall provide documentation from a
15 licensed practitioner that the prescription for a detected drug was legitimately issued and is a
16 necessary part of the treatment of the Respondent. Failure to timely provide such documentation
17 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
18 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
19 shall be considered a violation of probation and shall result in automatic suspension of practice by
20 Respondent. Respondent may not resume practice until notified by the board in writing.

21 During any such suspension, respondent shall not enter any pharmacy area or any portion of
22 the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor
23 of drugs licensed by the board, or any manufacturer, or where dangerous drugs and devices or
24 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 any such 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 Failure to comply with any such suspension shall be considered a violation of probation.

6 **17. Tolling of Probation**

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

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

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

21 "Cessation of practice" means any calendar month during which Respondent is
22 not practicing as a pharmacist for at least forty (40) hours, as defined by Business and
23 Professions Code section 4000 et seq. "Resumption of practice" means any calendar
24 month during which Respondent is practicing for at least forty (40) hours as a
25 pharmacist as defined by Business and Professions Code section 4000 et seq.

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1 **18. License Surrender While on Probation/Suspension**

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

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

14 **19. Violation of Probation**

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

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

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20. **Completion of Probation**

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

ACCEPTANCE

I have carefully read the foregoing 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.

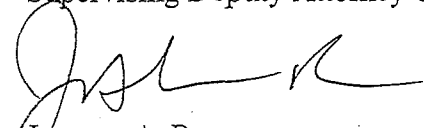
DATED: 6/13/11 
GARY VICTOR MANTESE
Respondent

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: 6/23/2011

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General


JOSHUA A. ROOM
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 3890

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
Deputy Attorney General
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Attorneys for Complainant

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10 In the Matter of the Accusation Against:

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11 **GARY VICTOR MANTESE**
12 **300 Juniper Ridge # 266**
13 **Coalinga, CA 93210**

A C C U S A T I O N

14 **Pharmacist License No. RPH 47841**

15 Respondent.

16 Complainant alleges:

17 PARTIES

- 18 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
19 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 20 2. On or about May 5, 1995, the Board of Pharmacy issued Pharmacist License Number
21 RPH 47841 to Gary Victor Mantese (Respondent). The License was in full force and effect at all
22 times relevant to the charges brought herein and will expire on August 31, 2012, unless renewed.

23
24 JURISDICTION

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

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FIRST CAUSE FOR DISCIPLINE

(License Discipline by Another State)

9. Respondent is subject to disciplinary action under section 4301(n) of the Code, in that Respondent's license to practice pharmacy was subjected to discipline by another state, namely, Missouri. Respondent's disciplinary history in that state is as follows:

a. The stipulated facts underlying a disciplinary order against a license to practice pharmacy (# 29599) issued to Respondent by the Missouri Board of Pharmacy included that:

on or about June 26, 2003, Respondent was arrested by St. Louis Police in a known **crack cocaine** house while in possession of drug paraphernalia (a **crack pipe**);

on or about October 17, 2003, a urine sample provided by Respondent tested positive for **cocaine** metabolites;

on or about August 27, 2002, Respondent was convicted of driving under the influence of alcohol in California.

b. On or about April 1, 2005, and effective on or about May 17, 2005, Respondent signed and agreed to a stipulated settlement agreement with the Missouri Board of Pharmacy that imposed discipline on his license to practice pharmacy. The terms of the discipline included the suspension of Respondent's license to practice pharmacy for three (3) years, followed by a term of probation of five (5) years, both on specified terms and conditions including drug testing.

SECOND CAUSE FOR DISCIPLINE

(License Discipline by Another State)

10. Respondent is subject to disciplinary action under section 4301(n) of the Code, in that Respondent's license to practice pharmacy was subjected to discipline by another state, namely, Louisiana. Respondent's disciplinary history in that state is as follows:

a. On or about February 17, 2005, the Louisiana Board of Pharmacy accepted the voluntary surrender of Respondent's license to practice pharmacy (# 11065) submitted December 13, 2004, and thereby ordered indefinite suspension of the license effective December 13, 2004.

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1 FOURTH CAUSE FOR DISCIPLINE

2 (License Discipline by Another State)

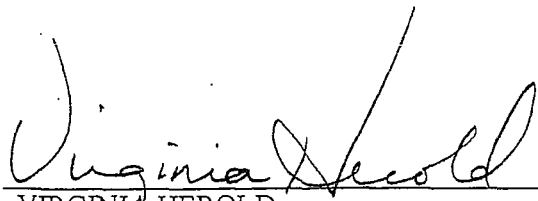
3 12. Respondent is subject to disciplinary action under section 4301(n) of the Code, in that
4 Respondent's license to practice pharmacy was subjected to discipline by another state, namely,
5 Illinois. Respondent's disciplinary history in that state includes that on or about May 25, 2006, a
6 Consent Order approved by the Illinois Department of Financial and Professional Regulation,
7 Division of Professional Regulation, with regard to Respondent's license to practice pharmacy in
8 that state (# 51031441), suspended that license indefinitely, until such time as Respondent might
9 petition for restoration. To petition for restoration, Respondent would have to show, *inter alia*,
10 that his Texas and Louisiana licenses are no longer in suspended status.

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13 PRAYER

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

- 16 1. Revoking or suspending Pharmacist License Number RPH 47841, issued to Gary
17 Victor Mantese (Respondent);
- 18 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
19 enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 20 3. Taking such other and further action as is deemed necessary and proper.

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23 DATED: 4/5/11


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

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