

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

In the Matter of the Statement of Issues
Against:

Case No. 3967

OAH No. 2011070943

CHARLES LOUIS PECKERMAN
2508 Freedom Way
Medford, OR 97504

Pharmacist Applicant

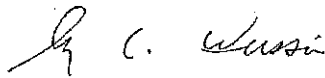
Respondent.

ORDER DENYING RECONSIDERATION

The Board of Pharmacy having read and considered respondent's petition for reconsideration of the board's decision effective August 9, 2012. NOW THEREFORE IT IS ORDERED that the petition for reconsideration is denied. The Board of Pharmacy's Decision and Order initially effective July 30, 2012, and thereafter stayed to August 9, 2012, is the Board of Pharmacy's final decision in this matter.

Date: August 7, 2012

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

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

In the Matter of the Statement of Issues Against:

Charles Louis Peckerman
Pharmacist Applicant

Respondent.

Case No. 3967

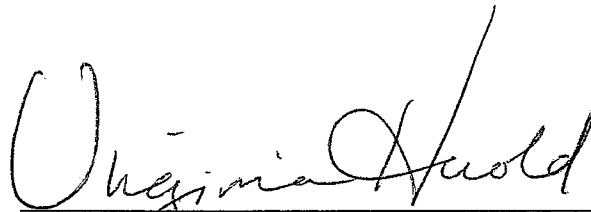
OAH No. 2011070943

NOTICE OF DECISION AND ORDER

No action having been taken and processed timely on the attached Proposed Decision, pursuant to Government Code section 11517(c)(2) the attached decision is hereby deemed adopted by operation of law on June 29, 2012, by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in the above entitled matter.

Pursuant to Government Code section 11519, this Decision shall become effective on July 30, 2012.

Date June 29, 2012.



VIRGINIA K. HEROLD, EXECUTIVE OFFICER
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

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

In the Matter of the Statement of Issues
Against:

CHARLES LOUIS PECKERMAN
2508 Freedom Way
Medford, OR 97504,

Respondent.

Case No. 3967

OAH No. 2011070943

PROPOSED DECISION

This matter was heard by Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, in Los Angeles, California, on February 6, 2012.

Nancy A. Kaiser, Deputy Attorney General, represented Virginia K. Herold (Complainant).

Charles Louis Peckerman (Respondent) represented himself.

Complainant seeks to deny Respondent's pharmacist license application on the bases that Respondent has suffered prior discipline and that he has not established that he is competent to practice pharmacy. Respondent presented evidence and argument in support of licensure.

Oral and documentary evidence was received at the hearing, and the matter was submitted for decision.

FACTUAL FINDINGS

1. Complainant filed the Statement of Issues in her official capacity as Executive Officer, Board of Pharmacy (Board), Department of Consumer Affairs, State of California.
2. On January 12, 2010, the Board received Respondent's Application for Pharmacist Licensure and Examination. He disclosed prior disciplinary action by the Board and by pharmacy boards in the States of Oregon and Washington. On May 11, 2010, the Board denied the application, and Respondent thereafter requested a hearing.
3. On March 21, 1985, the Board issued Pharmacist License Number RPH 39310 to Respondent.

4. a. On May 13, 2003, Respondent entered into a Stipulated Settlement and Disciplinary Order (Disciplinary Order) admitting the truth of the allegations of a then-pending accusation and stipulating to the revocation of his license, which revocation was to be stayed for a period of three years. The Disciplinary Order was approved by the Board on June 18, 2003, and became effective on July 18, 2003.

b. Pursuant Respondent's stipulation in the Disciplinary Order, and Respondent's testimony at the hearing consistent with the stipulation, the following facts have been established. On several instances in 1989, 1991, 1993, and April 2001, Respondent sent letters, some of which were anonymous, to a female instructor at the University of Southern California School of Pharmacy in which he repeatedly referred to her as "conceited," "pompous," "arrogant," and "bitch." One of the anonymous letters, sent in January 1993, was sent to the instructor's husband, asking if he was still married to the "conceited pompous arrogant bitch." On February 5, 2002, the Board compelled Respondent to undergo a psychiatric evaluation pursuant to Business and Professions Code¹ section 822. A psychologist evaluated Respondent on June 13 and 18, 2002, and concluded that Respondent was in need of ongoing psychotherapy, psychiatric treatment, and medication management.

c. In addition to standard terms and conditions of probation involving the monitoring of Respondent's activities as a pharmacist, Respondent was required to undergo psychotherapy, periodic mental health examination, and to comply with his treating mental health professionals' treatment plans.

5. a. Respondent is also licensed in the States of Oregon and Washington, and pharmacy regulators in those states have disciplined his license on the basis of the California discipline.

b. On January 6, 2005, Respondent entered into a Consent Order with the Board of Pharmacy for the State of Oregon (Oregon Board) in which his pharmacist license was placed on probation. Respondent complied with the terms of probation and on February 22, 2006, the Oregon Board granted his petition for early termination of probation. Respondent was first licensed in Oregon on April 16, 1998, and has no other discipline in that State.

c. On April 17, 2008, Respondent and the State of Washington, Department of Health, Board of Pharmacy (Washington Board), entered into a Stipulated Findings of Fact, Conclusions of Law and Agreed Order, in which Respondent's license was indefinitely suspended, subject to reinstatement if he fulfilled certain conditions. On January 21, 2010, pursuant to another agreed order, Respondent's license was reinstated and placed on probation for a period of five years, subject to terms and conditions. Respondent was first licensed in Washington on January 21, 1997, and has suffered no other discipline in that State.

¹ All further statutory references are to the Business and Professions Code.

6. Respondent complied with the terms and conditions of his probation with the Board, including undergoing mental health examination and paying a \$5,000 fine. However, in August 2005 he lost his job of 17 years, and had to leave California, in September 2005, to find employment in Medford, Oregon. He thereafter surrendered his license, which surrender was accepted by the Board on October 24, 2005.

7. Respondent worked as a pharmacist for several Wal-Mart stores in the Medford, Oregon, area, until his termination in November 2009. Respondent submitted six letters of reference from registered pharmacists with whom he worked in Oregon. All attest to his professionalism, caring, and competence as a pharmacist. Respondent has been unable to find employment as a pharmacist in Oregon, and is trying to obtain licensure in other states, including California.

8. a. Respondent has been diagnosed with depression, anxiety, and obsessive compulsive disorder. He has continued to receive treatment for his conditions while residing in Oregon. He saw a psychologist between August 2005 and the beginning of 2007. His primary care provider since October 2008 is W. Devin Smith, PMHNP (Smith), a nurse practitioner therapist in Medford, Oregon. Smith has prescribed medication and provided therapy for anxiety and depression since October 2008. Respondent continues to receive treatment from Smith. Smith submitted a letter dated July 26, 2011, confirming Respondent's participation in treatment, and stating that Respondent is dedicated to his therapeutic plan.

b. In September 2011, Respondent underwent treatment with a psychiatrist referred by Smith, Diane Hennacy Powell, M.D. (Powell). Dr. Powell wrote a letter dated October 4, 2011, which states: "I am a licensed psychiatrist in Oregon and evaluated Mr. Peckerman on September 21, 2011 and September 27, 2011 for a total of two hours. I have also reviewed information from Walter Devin Smith, PMHNP. It is my professional opinion that he is safe to practice pharmacy. Please contact me if you have any questions or concerns regarding this matter." (Exhibit D.)

9. Respondent agreed that his actions toward the instructor and her husband were inappropriate, and testified that he does not hold the same opinions of the instructor. There is no evidence that he has engaged in any similar conduct since 2001.

LEGAL CONCLUSIONS

1. Grounds exist to deny Respondent's application pursuant to sections 480, subdivision (a)(3), and 822, and California Code of Regulations, title 16, section 1770, in that he committed acts that if committed by a licensee would be grounds for suspension or revocation of his license, by reason of factual finding number 4. In fact, he was a Board licensee when he committed the acts that brought into question his fitness to continue to practice pharmacy.

2. Section 822 provides: "If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by one of the following methods: [¶] (a) Revoking the licentiate's certificate or license. [¶] (b) Suspending the licentiate's right to practice. [¶] (c) Placing the licentiate on probation. [¶] . . . [¶] The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused the action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated."

3. Respondent has failed to submit competent evidence of the absence or control of the mental condition that led to the revocation of his license in 2003, as required by section 822. As acknowledged by Respondent in the Disciplinary Order, the Board had reason to be concerned about Respondent's ability to safely discharge the duties and functions of a pharmacist. Respondent agreed to probation conditions that included mental health testing and treatment which conditions, if complied with, would have led to full reinstatement of his license. Despite his initial compliance, Respondent did not complete his probation, and the Board was unable to monitor him for the agreed period to verify that the mental impairment had been eliminated or controlled. Respondent is to be commended for continuing with his treatment despite economic difficulties. But section 822 requires that Respondent provide assurances, in the form of competent evidence, that he is fit to practice. He did not present such evidence here. No expert witness testified at the hearing in Respondent's behalf and the letters that were submitted, even if treated as direct evidence, are insufficient. The letters are conclusory, and do not contain sufficient information about Respondent's mental health. For instance, neither Smith nor Dr. Powell discuss the testing or other evaluation performed, the diagnos(es) derived, or the treatment(s) provided to Respondent. The order that follows is therefore required for the protection of the public.

ORDER

Respondent Charles Louis Peckerman's application for licensure as a pharmacist is denied.

DATED: 3/1/12



SAMUEL D. REYES

Administrative Law Judge

Office of Administrative Hearings

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 NANCY A. KAISER
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300 So. Spring Street, Suite 1702
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Telephone: (213) 897-5794
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

12

In the Matter of the Statement of Issues
Against:

Case No. 3967

13

CHARLES LOUIS PECKERMAN
2508 Freedom Way
Medford, Oregon 97504

STATEMENT OF ISSUES

14

15

Applicant for Pharmacist License

16

Respondent.

17

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Complainant alleges:

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PARTIES

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

24

2. On or about January 12, 2010, the California State Board of Pharmacy received an
25 application for a Pharmacist License from Charles Louis Peckerman (Respondent). On or about
26 December 25, 2009, Respondent certified under penalty of perjury to the truthfulness of all
27 statements, answers, and representations in the application. The Board denied the application on
28 May 11, 2010.

28

1 3. On or about March 21, 1985, the Board of Pharmacy (Board) issued Pharmacist
2 License No. RPH 39310 to Charles Louis Peckerman (Respondent). On or about June 18, 2003,
3 License No. RPH 39310 was revoked, immediately stayed, and placed on probation for three (3)
4 years pursuant to the Board's decision in case no. 1986, as more fully discussed below. Pursuant
5 to Respondent's request to surrender his License, the Board canceled the License on or about
6 October 24, 2005.

7 JURISDICTION

8 4. This Statement of Issues is brought before the Board of Pharmacy (Board), under the
9 authority of the following laws. All section references are to the Business and Professions Code
10 unless otherwise indicated.

11 5. Section 4300 of the Code states, in part:

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

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

16 ...

17 "(2) Placing him or her upon probation.

18

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

21 "(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The
22 board may, in its sole discretion, issue a probationary license to any applicant for a license who is
23 guilty of unprofessional conduct and who has met all other requirements for licensure."

24 6. Section 4301 of the Code states:

25 "The board shall take action against any holder of a license who is guilty of unprofessional
26 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake."

27 ///

28 ///

1 7. Section 820 of the Code states:

2 "(a) A board may deny a license regulated by this code on the grounds that the applicant has
3 one of the following:

4 ...

5 "(3) (A) Done any act that if done by a licentiate of the business or profession in question,
6 would be grounds for suspension or revocation of license.

7 "(B) The board may deny a license pursuant to this subdivision only if the crime or act is
8 substantially related to the qualifications, functions, or duties of the business or profession for
9 which application is made."

10 8. Section 820 of the Code states:

11 "Whenever it appears that any person holding a license, certificate or permit under this
12 division or under any initiative act referred to in this division may be unable to practice his or her
13 profession safely because the licentiate's ability to practice is impaired due to mental illness, or
14 physical illness affecting competency, the licensing agency may order the licentiate to be
15 examined by one or more physicians and surgeons or psychologists designated by the agency.
16 The report of the examiners shall be made available to the licentiate and may be received as direct
17 evidence in proceedings conducted pursuant to Section 822."

18 9. Section 822 of the Code states:

19 "If a licensing agency determines that its licentiate's ability to practice his or her profession
20 safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the
21 licensing agency may take action by any one of the following methods:

22 (a) Revoking the licentiate's certificate or license.

23 (b) Suspending the licentiate's right to practice.

24 (c) Placing the licentiate on probation.

25 (d) Taking such other action in relation to the licentiate as the licensing agency in its
26 discretion deems proper.

27 "The licensing agency shall not reinstate a revoked or suspended certificate or license
28 until it has received competent evidence of the absence or control of the condition which caused

1 its action and until it is satisfied that with due regard for the public health and safety the person's
2 right to practice his or her profession may be safely reinstated."

3 10. Section 4313 of the Code states:

4 "In determining whether to grant an application for licensure or whether to discipline or
5 reinstate a license, the board shall give consideration to evidence of rehabilitation. However,
6 public protection shall take priority over rehabilitation and, where evidence of rehabilitation and
7 public protection are in conflict, public protection shall take precedence."

8 **REGULATORY PROVISION**

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

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

16 **CAUSE FOR DENIAL OF APPLICATION**

17 **(Prior Discipline - Impairment)**

18 12. Respondent's application is subject to denial under Sections 480, subdivision (a)(3),
19 and 822, in that Respondent committed acts which if committed by a licensee would be grounds
20 for the suspension or revocation of that license, as follows:

21 13. Respondent's previous license, Pharmacist License No. RPH 39310, was disciplined
22 pursuant to Section 822 of the Code in the case entitled, "*In the Matter of the Accusation Against*
23 *Charles Peckerman, Pharmacist License No. RPH 39310*," Case No. 1986, effective on or about
24 June 18, 2003. Pursuant to the Decision and Order, Respondent's license was revoked, revocation
25 stayed, and placed on probation for three years with terms and conditions, which included
26 undergoing a mental health examination and psychotherapy. In addition, based on the mental
27 health examination and/or the psychotherapy, if Respondent was determined unable to practice
28 safely, Respondent was required to immediately stop practice and not to resume practice until

1 notified by the Board. A copy of the Decision and Order is attached hereto as Exhibit "A" and
2 incorporated herein by this reference.

3 14. In the Board-adopted Stipulated Settlement and Disciplinary Order, Respondent
4 admitted the truth of each and every charge and allegation in Accusation No. 1986, including the
5 fact that he suffers from a mental illness which, if not controlled with proper medication and/or
6 therapy, may impair his ability to safely practice as a pharmacist, and therefore his license was
7 subject to an order pursuant to Business and Professions Code Section 822.

8 15. Pursuant to Section 822 of the Code, Respondent has failed to submit to the Board
9 with his application "competent evidence of the absence or control of the condition which caused
10 [the Board's] action and . . . that with due regard for the public health and safety . . .
11 [Respondent's] right to practice his or her profession may be safely reinstated."

12 OTHER MATTERS

13 16. On or about January 6, 2005, *In the Matter of the Pharmacist License of Charles L.*
14 *Peckerman, R.PH., Licensee, Case No. 2004-0145*, the Board of Pharmacy, State of Oregon
15 (Oregon Board of Pharmacy), disciplined Respondent's Pharmacist License No. RPH-0009349
16 issued by the Oregon Board of Pharmacy. The discipline was based on the California Board of
17 Pharmacy's Decision and Order in Case No. 1986. The Oregon Board of Pharmacy's Consent
18 Order (Consent Order), dated January 6, 2005, placed Respondent's Oregon Pharmacist License
19 No. RPH-0009349 on probation until May 2006. The Consent Order, dated February 22, 2006,
20 terminated the probation early and fully reinstated Respondent's pharmacist license as of February
21 22, 2006. Copies of the Consent Orders are attached hereto as Exhibit B and are incorporated
22 herein by this reference.

23 17. On or about April 17, 2008, in *In the Matter of Charles L. Peckerman, Credential No.*
24 *PH00022492*, Docket No. 07-08-A-1089PH, Master Case No. M2007-73845, the Board of
25 Pharmacy, Department of Health, State of Washington (Washington Board of Pharmacy)
26 disciplined Respondent's pharmacist license issued by the Washington Board of Pharmacy,
27 Credential No. PHRM. PH. 00022492 (2008 Agreed Order). The discipline was based on the
28 California Board of Pharmacy's Decision and Order in Case No. 1986. The 2008 Agreed Order

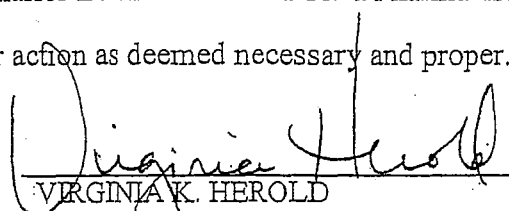
1 indefinitely suspended Respondent's Washington Pharmacist License unless certain conditions
2 were met. On or about January 21, 2010, the Washington Board of Pharmacy issued an Agreed
3 Order in the matter that lifted the suspension of Respondent's Washington pharmacy license and
4 placed his license on probation for at least five (5) years with terms and conditions. Copies of the
5 Washington Board of Pharmacy's Agreed Orders are attached hereto as Exhibit C and are
6 incorporated herein by this reference.

7 PRAYER

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

- 10 1. Denying the application of Charles Louis Peckerman for a Pharmacist License; and,
11 2. Taking such other and further action as deemed necessary and proper.

12 DATED: 5/27/11

13 
14 VIRGINIA K. HEROLD
15 Executive Officer
16 California State Board of Pharmacy
17 State of California
18 Complainant

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EXHIBIT A
Decision and Order, Case No. 1986

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

In the Matter of the Accusation Against:

CHARLES PECKERMAN
302 Beach Road
Marina, CA 93933

Pharmacist License No. RPH 39310

Respondent.

Case No. 1986

OAH No.

DECISION AND ORDER

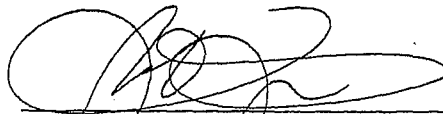
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on July 18, 2003.

It is so ORDERED June 18, 2003.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



JOHN D. JONES
Board President

1 BILL LOCKYER, Attorney General
of the State of California
2 GREGORY J. SALUTE, State Bar No. 164015
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300 So. Spring Street, Suite 1702
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6 Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

11 CHARLES PECKERMAN
12 302 Beach Road
Marina, CA 93933
13 Pharmacist License No. RPH 39310

14 Respondent.

Case No. 1986

OAH No. N2002090549

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

21 PARTIES

22 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of
23 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
24 by Bill Lockyer, Attorney General of the State of California, by Gregory J. Salute, Deputy
25 Attorney General.

26 2. Respondent Charles Peckerman (Respondent) is represented in this
27 proceeding by attorney Ken Kroopf, Esq., whose address is 787 Munras Avenue, #A, Monterey,
28 CA 93940.

1 3. On or about March 21, 1985, the Board of Pharmacy issued Pharmacist
2 License No. RPH 39310 to Charles Peckerman (Respondent). The License was in full force and
3 effect at all times relevant to the charges brought in Accusation No. 1986 and will expire on May
4 31, 2004, unless renewed.

5 JURISDICTION

6 4. Accusation No. 1986 was filed before the Board of Pharmacy (Board),
7 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
8 and all other statutorily required documents were properly served on Respondent on August 26,
9 2002. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of
10 Accusation No. 1986 is attached as Exhibit "A" and incorporated herein by reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, fully discussed with counsel, and
13 understands the charges and allegations in Accusation No. 1986. Respondent has also carefully
14 read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and
15 Disciplinary Order.

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

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

25 CULPABILITY

26 8. Respondent admits the truth of each and every charge and allegation in
27 Accusation No. 1986, including the fact that he suffers from a mental illness which, if not
28 controlled with proper medication and/or therapy, may impair his ability to safely practice as a

1 Respondent shall report any of the following occurrences to the Board, in writing,
2 within 72 hours of such occurrence:

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

13 2. **Reporting to the Board.** Respondent shall report to the Board
14 quarterly. The report shall be made either in person or in writing, as directed. Respondent
15 shall state under penalty of perjury whether there has been compliance with all the terms and
16 conditions of probation. If the final probation report is **not** made as directed, probation shall
17 be extended automatically until such time as the final report is made and accepted by the
18 Board.

19 3. **Interview with the Board.** Upon receipt of reasonable notice,
20 Respondent shall appear in person for interviews with the Board upon request at various
21 intervals at a location to be determined by the Board. Failure to appear for a scheduled
22 interview without prior notification to Board staff shall be considered a violation of probation.

23 4. **Cooperation with Board Staff.** Respondent shall cooperate with the
24 Board's inspectional program and in the Board's monitoring and investigation of Respondent's
25 compliance with the terms and conditions of His probation. Failure to comply shall be
26 considered a violation of probation.

27 5. **Continuing Education.** Respondent shall provide evidence of efforts
28 to maintain skill and knowledge as a pharmacist as directed by the Board.

1 6. **Notice to Employers.** Respondent shall notify all present and
2 prospective employers of the decision in case number 1986 and the terms, conditions and
3 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of
4 this decision, and within 15 days of Respondent undertaking new employment, Respondent
5 shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in
6 writing acknowledging the employer has read the decision in case number 1986.

7 If Respondent works for or is employed by or through a pharmacy employment
8 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at
9 every pharmacy of the terms and conditions of the decision in case number 1986 in advance of
10 the Respondent commencing work at each pharmacy.

11 "Employment" within the meaning of this provision shall include any full-time, part-
12 time, temporary, relief or pharmacy management service as a pharmacist, whether the
13 Respondent is considered an employee or independent contractor.

14 7. **Reimbursement of Board Costs.** Respondent shall pay to the Board
15 its costs of investigation and prosecution in the amount of \$5000.00 Respondent shall make
16 said payments pursuant to an installment plan wherein full payment must be received no later
17 than thirty (30) days prior to the scheduled date of termination of probation. Failure to
18 reimburse the Board's cost of its investigation and prosecution shall constitute a violation of
19 the probationary order.

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

22 8. **Probation Monitoring Costs.** Respondent shall pay the costs
23 associated with probation monitoring as determined by the Board each and every year of
24 probation. Such costs shall be payable to the Board at the end of each year of probation.
25 Failure to pay such costs shall be considered a violation of probation.

26 9. **Status of License.** Respondent shall, at all times while on probation,
27 maintain an active current license with the Board, including any period during which
28 suspension or probation is tolled.

1 If Respondent's license expires or is cancelled by operation of law or otherwise,
2 upon renewal or reapplication, Respondent's license shall be subject to all terms and
3 conditions of this probation not previously satisfied.

4 **10. License Surrender while on Probation/Suspension.** Following the
5 effective date of this decision, should Respondent cease practice due to retirement or health, or
6 be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender
7 His license to the Board for surrender. The Board shall have the discretion whether to grant
8 the request for surrender or take any other action it deems appropriate and reasonable. Upon
9 formal acceptance of the surrender of the license, Respondent will no longer be subject to the
10 terms and conditions of probation.

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

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

21 **12. Tolling of Probation.** Respondent must notify the board in writing
22 within 10 days of cessation of the practice of pharmacy or the resumption of the practice of
23 pharmacy. Such periods of time shall not apply to the reduction of the probation period. It is
24 a violation of probation for respondent's probation to remain tolled pursuant to the provisions
25 of this condition for a period exceeding three years.

26 "Cessation of practice" means any period of time exceeding 30 days in which
27 respondent is not engaged in the practice of pharmacy as defined in Section 4052 of the
28 Business and Professions Code.

1 Respondent shall work at least 40 hours in each calendar month as a pharmacist and at
2 least an average of 80 hours per month in any six consecutive months. Failure to do so will be
3 a violation of probation. If Respondent has not complied with this condition during the
4 probationary term, and Respondent has presented sufficient documentation of his or her good
5 faith efforts to comply with this condition, and if no other conditions have been violated, the
6 board, in its discretion, may grant an extension of Respondent's probation period up to one
7 year without further hearing in order to comply with this condition.

8 **13. Violation of Probation.** If Respondent violates probation in any respect,
9 the Board, after giving Respondent notice and an opportunity to be heard, may revoke
10 probation and carry out the disciplinary order which was stayed. If a petition to revoke
11 probation or an accusation is filed against Respondent during probation, the Board shall have
12 continuing jurisdiction and the period of probation shall be extended, until the petition to
13 revoke probation or accusation is heard and decided.

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

19 **14. Completion of Probation.** Upon successful completion of probation,
20 Respondent's license will be fully restored.

21 **15. Psychotherapy.** Within 30 days of the effective date of this decision,
22 Respondent shall submit to the Board, for its prior approval, the name and qualifications of a
23 licensed mental health practitioner of Respondent's choice. Should Respondent, for any
24 reason, cease treatment with the approved licensed mental health practitioner, Respondent
25 shall notify the Board immediately and, within 30 days of ceasing treatment, submit the name
26 of a replacement psychotherapist or licensed mental health practitioner of Respondent's choice
27 to the Board for its prior approval.

28 Therapy shall be at least once a week unless otherwise determined by the

1 Board. Respondent shall provide the therapist with a copy of the Board's accusation and
2 decision no later than the first therapy session. Respondent shall take all necessary steps to
3 ensure that the treating therapist submits written quarterly reports to the Board concerning
4 Respondent's fitness to practice, progress in treatment, and to provide such other information
5 as may be required by the Board. If the treating therapist finds that Respondent cannot
6 practice safely or independently at any time, the therapist shall notify the Board immediately
7 by telephone and followed up by written letter within three working days.

8 Upon approval of the licensed mental health practitioner, Respondent shall
9 undergo and continue treatment with that therapist and at Respondent's own expense, until the
10 Board deems that no further psychotherapy is necessary. The Board may require Respondent
11 to undergo a mental health evaluation(s) by a Board-appointed or Board-approved licensed
12 mental health practitioner.

13 16. **Mental Health Examination.** Within 30 days of the effective date of this
14 decision, and on a periodic basis as may be required by the Board, respondent shall undergo,
15 at his own expense, psychiatric evaluation(s) by a board-appointed or board-approved
16 psychiatrist or psychologist. Respondent shall sign a release authorizing the evaluator to
17 furnish the Board with a current diagnosis and a written report regarding the Respondent's
18 judgment and ability to function independently as a pharmacist with safety to the public.
19 Respondent shall comply with all of the recommendations of the evaluator if directed by the
20 Board.

21 If a psychiatrist or psychotherapist recommends, and the Board directs, Respondent
22 shall undergo psychotherapy. Respondent shall, within 30 days of written notice of the need
23 for psychotherapy, submit to the Board for its prior approval, the recommended program for
24 ongoing psychotherapeutic care. Respondent shall undergo and continue psychotherapy at
25 Respondent's own expense until further notice from the Board. Respondent shall have the
26 treating psychotherapist, or psychiatrist or licensed mental health practitioner submit written
27 quarterly reports to the Board as directed. If Respondent is determined to be unable to practice
28 safely, upon notification, Respondent shall immediately cease practice and shall not resume

1 practice until notified by the Board.

2 17. No Ownership of Premises. Respondent shall not own, have any legal or
3 beneficial interest in, or serve as a manager, administrator, member, officer, director,
4 associate, or partner of any business, firm, partnership, or corporation currently or hereinafter
5 licensed by the Board. Respondent shall sell or transfer any legal or beneficial interest in any
6 entity licensed by the Board within 90 days following the effective date of this decision and
7 shall immediately thereafter provide written proof thereof to the Board.

8 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve
9 as a manager, administrator, member, officer, director, trustee, associate, or partner of any
10 additional business, firm, partnership, or corporation licensed by the Board. If Respondent
11 currently owns or has any legal or beneficial interest in, or serves as a manager, administrator,
12 member, officer, director, associate, or partner of any business, firm, partnership, or
13 corporation currently or hereinafter licensed by the Board, Respondent may continue to serve
14 in such capacity or hold that interest, but only to the extent of that position or interest as of the
15 effective of this decision.

16 ACCEPTANCE

17 I have carefully read the above Stipulated Settlement and Disciplinary Order
18 and have fully discussed it with my attorney, Ken Kroopf, Esq.. I understand the stipulation
19 and the effect it will have on my Pharmacist License. I enter into this Stipulated Settlement
20 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
21 Decision and Order of the Board of Pharmacy.

22 DATED: 5/13/03

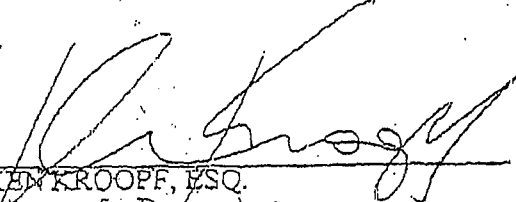
23
24 *Charles Peckerman*
25 CHARLES PECKERMAN
26 Respondent
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28

ATTORNEY CONSENT

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I have read and fully discussed with Respondent Charles Peckerman the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 5-14-03



KEN KROOFF, ESQ.
Attorney for 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: 5/19/03

BILL LOCKYER, Attorney General
of the State of California


GREGORY J. SALITE
Deputy Attorney General
Attorneys for Complainant

DOJ Docket Number: 03583110-LA2001AD2352

Exhibit A
Accusation No. 1986

1 BILL LOCKYER, Attorney General
of the State of California
2 GREGORY J. SALUTE, State Bar No. 164015
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2520
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

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. 1986

11 CHARLES PECKERMAN
12 Charles L. Peckerman
302 Beach Road
13 Marina, CA 93933

A C C U S A T I O N

14 Pharmacist License No. RPH 39310

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

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

22 2. On or about March 21, 1985, the Board of Pharmacy issued Pharmacist
23 License Number RPH 39310 to Charles Peckerman (Respondent). The Pharmacist License was
24 in full force and effect at all times relevant to the charges brought herein and will expire on May
25 31, 2004, unless renewed.

26 JURISDICTION

27 3. This Accusation is brought before the Board of Pharmacy (Board), under
28 the authority of the following sections of the Business and Professions Code (Code).

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4. Section 820 of the Code states:

“Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822.”

5. Section 822 of the Code states:

“If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

“(a) Revoking the licentiate's certificate or license.

“(b) Suspending the licentiate's right to practice.

“(c) Placing the licentiate on probation.

“(d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

“The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.”

6. Section 125.3 of the Code provides, 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.

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1 CAUSE FOR DISCIPLINE

2 (Impairment)

3 7. Respondent is subject to disciplinary action under section 822 of the
4 Business and Professions Code in that the licensing agency has determined that Respondent's
5 ability to practice as a pharmacist safely is impaired because Respondent suffers from mental
6 illness and/or is physically ill which affects his competency.

7 8. On or about February 5, 2002, Complainant filed a "Petition for an Order to
8 Compel Psychiatric Evaluation" of Respondent. A copy of that petition is attached hereto as
9 Exhibit "A".

10 9. An order compelling the psychiatric/psychological evaluation was adopted by
11 the Board on April 25, 2002. A copy is attached hereto as Exhibit "B".

12 10. Pursuant to that order, Respondent was evaluated by a psychologist on or
13 about June 13, 2002 and June 18, 2002. The psychologist concluded based upon his
14 psychological evaluation of Respondent and his review of Respondent's relevant psychiatric and
15 medical records that Respondent is in need of ongoing psychotherapy and psychiatric treatment
16 and medication management. In addition, the psychologist's conclusion was based upon the
17 occurrence of the following circumstances:

18 11. On or about June 1993, the Board received a complaint from an instructor at
19 the University of Southern California (USC) School of Pharmacy. The instructor informed the
20 Board that since 1986, Respondent, who was a former student, was sending threatening letters to
21 her and to another colleague. Among other things, the letters included the following statements:

22 A. In spring of 1986, Respondent sent an anonymous threatening letter which
23 was referred to the Los Angeles Police Department.

24 B. On or about December 8, 1989, Respondent sent a check in the
25 amount of "absolutely nothing" to the USC School of Pharmacy in response to a donation
26 request.

27 C. In October 1990, Respondent sent an anonymous letter to
28 an instructor at USC School of Pharmacy. The letter stated he was one of her students

1 and calls her "... a conceited pompous arrogant bitch."

2 D. In September 1991, Respondent sent a letter to the President of
3 the USC Pharmacy Alumni Association, stating that two of the USC School of Pharmacy
4 instructors are "conceited pompous arrogant bitches."

5 E. In January 1993, Respondent sent an anonymous letter to a USC School of
6 Pharmacy instructor which states, in part, as follows: "... been selected for the 5th year
7 in a row as Pharmacist Bitch of the Year. In recognition of your conceited pompous nature
8"

9 F. In January 1993, Respondent sent an anonymous letter to a
10 USC School of Pharmacy instructor's husband which states, "Are you still married to that
11 Bitch? She's nothing more than a conceited pompous arrogant bitch." The letter
12 continues, "... might contract the AIDS virus. Maybe get hit by a truck. Maybe she'll
13 take a fall from a high building."

14 G. On May 19, 1993, Respondent wrote the Board a letter requesting
15 the address of one of his former USC School of Pharmacy instructors so that he might
16 contact her and referred to the instructor as "an old pharmacy acquaintance."

17 H. On April 15, 2001, Respondent sent a letter to a USC School of
18 Pharmacy instructor which states, in part, "Aren't you amazed that anyone would hire a
19 conceited, pompous arrogant Bitch like you?"

20 I. In April 2001, Respondent sent a letter to a USC School of Pharmacy
21 instructor which states, in part, "Best regards to Bitch. . . & Bitch. . . if we're really lucky
22 they will both be eaten by a great white shark"

23 PRAYER

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

26 A. Revoking or suspending Pharmacist License Number RPH 39310, issued
27 to Charles Peckerman; and/or suspending the imposition of that revocation or suspension upon
28 terms and conditions of probation that will require Respondent to demonstrate to the Board that

1 he is receiving ongoing psychiatric and psychological care and medication management, which
2 will assure his continued ability to practice as a pharmacist safely;

3 B. Ordering Charles Peckerman to pay the Board of Pharmacy the reasonable
4 costs of the investigation and enforcement of this case, pursuant to Business and Professions
5 Code section 125.3; and

6 C. Taking such other and further action as deemed necessary and proper.

7 DATED: 8/19/02

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P. J. Harris
PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

03583110-LA2001AD2352
gjs:8/5/02