

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
Supervising Deputy Attorney General
4 State Bar No. 214663
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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

10 In the Matter of the Accusation Against:
11 **FREDRICK LAMAR JOHNSON¹**
12 **P.O. Box 23041**
13 **Oakland, CA 94623**
14 **Pharmacist License No. RPH 61283**
15 Respondent.

Case No. 4552
OAH No. 2013061116
**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

20 PARTIES

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

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25 _____
26 ¹ The Accusation in this case was mistakenly filed using a misspelling of Respondent's
27 first name, which is spelled Fredrick rather than the Frederick used on the Accusation. By way of
28 this Stipulated Settlement and Disciplinary Order, the parties hereby agree the proper spelling, as
it is also reflected in Board records, is Fredrick Lamar Johnson, and this Stipulated Settlement
and Disciplinary Order amends the previously-filed Accusation to make this correction.

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacist License No. RPH 61283, issued to Fredrick
3 Lamar Johnson (Respondent), is revoked. However, the revocation is stayed and Respondent is
4 placed 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. Status of License**

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

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

22 **7. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
23 **Designated Representative-in-Charge, or Serving as a Consultant**

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

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1 **8. Notification of Change in Employment, Name, Address(es), or Phone(s)**

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

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

9 **9. No Ownership of Licensed Premises**

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

17 **10. Employment Requirement: Tolling of Probation**

18 Except during periods of suspension, Respondent shall, at all times while on probation, be
19 employed as a pharmacist in California for a minimum of forty (40) hours per calendar month.
20 Any month during which this minimum is not met tolls the period of probation, i.e., the period of
21 probation is extended by one month for each month in which the minimum is not met. During
22 any such period of tolling, Respondent must comply with all terms and conditions of probation.

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

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1 It is a violation of probation for Respondent's probation to remain tolled pursuant to the
2 provisions of this condition for a total period, counting consecutive and non-consecutive months
3 or smaller time periods, exceeding thirty-six (36) months.

4 "Cessation of practice" means any calendar month during which Respondent is
5 not practicing as a pharmacist as defined by Business and Professions Code section
6 4000 et seq. for at least forty (40) hours. "Resumption of practice" means any
calendar month during which Respondent is practicing as a pharmacist as defined by
Business and Professions Code section 4000 et seq. for at least forty (40) hours.

7 **11. Notice to Employers**

8 During the period of probation, Respondent shall notify all present and prospective
9 employers of the decision in case number 4552 and the terms, conditions and restrictions imposed
10 on Respondent by the decision, as follows:

11 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
12 Respondent undertaking any new employment, Respondent shall cause his direct supervisor,
13 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
14 tenure of employment) and owner to report to the board in writing acknowledging that the listed
15 individual(s) has/have read the decision in case number 4552, and terms and conditions imposed
16 thereby. It shall be Respondent's responsibility to ensure that his employer(s) and/or
17 supervisor(s) submit timely acknowledgment(s) to the board.

18 If Respondent works for or is employed by or through a pharmacy employment service,
19 Respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
20 licensed by the board of the terms and conditions of the decision in case number 4107 in advance
21 of the Respondent commencing work at each licensed entity. A record of this notification must
22 be provided to the board upon request.

23 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
24 (15) days of Respondent undertaking any employment by or through a pharmacy employment
25 service, Respondent shall cause his direct supervisor with the pharmacy employment service to
26 report to the board in writing acknowledging that he has read the decision in case number 4552
27 and the terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure
28 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

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

6 **12. 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 4552 and is familiar with the required level of supervision as determined
19 by the board or its designee. It shall be respondent's responsibility to ensure that his employer(s),
20 pharmacist-in-charge and/or supervisor(s) submit timely acknowledgment(s) to the board. Failure
21 to cause the direct supervisor and the pharmacist-in-charge to submit timely acknowledgements
22 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
24 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgment(s) to
25 the 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 4552 and are familiar with the level
28 of supervision as determined by the board.

1 In this circumstance, Respondent shall not practice pharmacy and his license shall be
2 automatically suspended until the board or its designee approves a new supervisor. Failure to
3 cause the direct supervisor and the pharmacist-in-charge to submit timely acknowledgements to
4 the board shall be considered a violation of probation.

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 which is licensed by the board, or any manufacturer, or where dangerous drugs and
8 devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do
9 any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or
10 patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee
11 of the board, or have access to or control ordering, manufacturing or dispensing of dangerous
12 drugs or 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 **13. Community Services Program**

19 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
20 board or its designee, for prior approval, a community service program in which respondent shall
21 provide free health-care related services on a regular basis to a community or charitable facility or
22 agency for at least fifty (50) hours per year for each year of probation (150 hours total). Within
23 thirty (30) days of board approval thereof, respondent shall submit documentation to the board
24 demonstrating commencement of the community service program. Respondent shall report on
25 progress with the community service program in the quarterly reports. Failure to timely submit,
26 commence, or comply with the program shall be considered a violation of probation.

27 With prior approval from the board or its designee, respondent may accelerate completion
28 of his community service hours by completing more than fifty (50) hours in any given year.

1 **14. Ethics Course**

2 Within sixty (60) calendar days of the effective date of this decision, Respondent shall, at
3 his own expense, enroll in a course in ethics approved in advance by the board or its designee.
4 Respondent shall submit a certificate of completion to the board or its designee within five (5)
5 days after completing the course. Failure to initiate the course during the first year of probation,
6 and complete it within the second year of probation, shall be considered a violation of probation.

7 **15. Criminal Probation/Parole Reports**

8 Respondent shall provide a copy of the conditions of any criminal probation/parole to the
9 board, in writing, within ten (10) days of the issuance or modification of those conditions.
10 Respondent shall provide the name of his probation/parole officer to the board, in writing, within
11 ten (10) days after that officer is designated or a replacement for that officer is designated.
12 Respondent shall provide a copy of all criminal probation/parole reports to the board within ten
13 (10) days after respondent receives a copy of such a report. Failure to timely make any of the
14 submissions required hereby shall be considered a violation of probation.

15 **16. Reimbursement of Board Costs**

16 As a condition precedent to successful completion of probation, Respondent shall pay to the
17 board its costs of investigation and prosecution in the amount of \$2,025.00. Respondent shall be
18 permitted to pay these costs in a payment plan approved by the Board or its designee, so long as
19 full payment is made within fifty-four (54) months of the effective date of this decision. There is
20 to be no deviation from this schedule absent prior written approval by the Board or its designee.
21 Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

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

24 **17. Probation Monitoring Costs**

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

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 the surrender, respondent shall relinquish his pocket and wall license to
10 the board within ten (10) days of notification by the board that 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. If a petition to revoke probation or an accusation is filed against respondent during
23 probation, the board shall have continuing jurisdiction and the period of probation shall be
24 automatically extended until the petition to revoke probation or accusation is heard and decided.

25 **20. Completion of Probation**

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

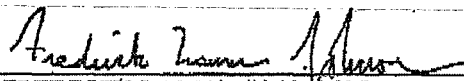
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ACCEPTANCE

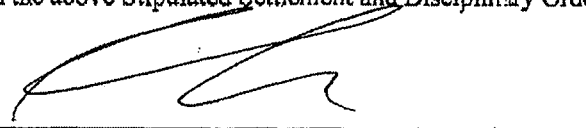
I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Paul Chan. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly,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

DATED: 11/5/2013


FREDRICK LAMAR JOHNSON
Respondent

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

DATED: 11/5/13


PAUL CHAN
Attorney for Respondent

ENDORSEMENT

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

Dated:

Respectfully submitted,

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

JOSHUA A. ROOM
Supervising Deputy Attorney General
Attorneys for Complainant

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Paul Chan. 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: _____
FREDRICK LAMAR JOHNSON
Respondent

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

DATED: _____
PAUL CHAN
Attorney for Respondent

ENDORSEMENT

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

Dated: 12/2/2013

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


JOSHUA A. ROOM
Supervising Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 4552

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
Supervising Deputy Attorney General
4 State Bar No. 214663
455 Golden Gate Avenue, Suite 11000
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Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 4552

11 **FREDERICK LAMAR JOHNSON**
12 **P.O. Box 23041**
13 **Oakland, CA 94623**

A C C U S A T I O N

14 **Pharmacist License No. RPH 61283**

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 August 6, 2008, the Board of Pharmacy issued Pharmacist License
21 Number RPH 61283 to Frederick Lamar Johnson (Respondent). The Pharmacist License was in
22 full force and effect at all times relevant to the charges brought herein and will expire on April 30,
23 2014, unless renewed.

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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1 FACTUAL BACKGROUND

2 10. On or about November 8, 2011, officer(s) of the Oakland Police Department were
3 dispatched to a residence in Oakland, California to respond to a report of a domestic disturbance
4 made by a female resident. The reporting party also stated that there was a gun in the house.

5 11. The reporting officer(s) made contact with Respondent and the female victim-witness
6 in the residence. The victim-witness made several statements about Respondent to the officer(s),
7 including that he had allegedly grabbed her by the shoulders and shoved her; that he had hit and
8 punched her in the past, and that Respondent had a handgun in the house.

9 12. Respondent stated that he and his girlfriend had been arguing, but otherwise offered a
10 different account of events in which his girlfriend threatened him with a knife. When asked by
11 the officer(s) if there was a gun in the house, Respondent said no. He said he used to have a gun,
12 but it was stolen sometime in March 2011. After the victim-witness said she had seen a gun more
13 recently in the house, the officer(s) asked for Respondent's consent to search the residence. He
14 refused, and the officer(s) secured a search warrant. Respondent then directed the officer(s) to a
15 black semiautomatic 9mm pistol, on which the serial number had been obliterated/scratched off.

16
17 FIRST CAUSE FOR DISCIPLINE

18 (Conviction of Substantially Related Crime(s))

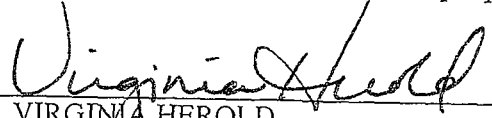
19 13. Respondent is subject to discipline under section 4301(l) and/or section 490 of the
20 Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of
21 a substantially related crime, in that on or about August 22, 2012, in the criminal case *People v.*
22 *Frederick Lamar Johnson*, Case No. 574667 in Alameda County Superior Court, Respondent was
23 convicted of violating Penal Code section 23920 (Purchase, Sale, Possession, or Transfer of an
24 Unmarked Firearm), a misdemeanor, and Penal Code section 273.5 (Infliction of Corporal Injury
25 on Spouse/Cohabitant), also a misdemeanor, as follows:

26 a. On or about November 10, 2011, based on the conduct described in the arrest
27 reports relating to paragraphs 10 to 12, Respondent was charged in Case No. 574667 in Alameda
28 County Superior Court with four felonies and three special allegations.

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

DATED: 5/9/13



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

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