

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

In the Matter of the Accusation Against:

ERIC STAFFORD JOHNSON
38144 Blackranch Rd.
Oakhurst, CA 93644

Pharmacist License No. RPH 38375

Respondent.

Case No. 6011

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on April 26, 2017.

It is so ORDERED on March 27, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 XAVIER BECERRA
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 MALISSA N. SIEMANTEL
Deputy Attorney General
4 State Bar No. 240157
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 327-7855
Facsimile: (916) 324-5567
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 6011

12 **ERIC STAFFORD JOHNSON**
13 **38144 Blackranch Rd.**
Oakhurst, California 93644

14 **Pharmacist License No. RPH 38375**

15 Respondent.

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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

19 **PARTIES**

20 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy
21 (Board). She brought this action solely in her official capacity and is represented in this matter by
22 Xavier Becerra, Attorney General of the State of California, by Malissa N. Siemantel, Deputy
23 Attorney General.

24 2. Eric Stafford Johnson ("Respondent") is representing himself in this proceeding and
25 has chosen not to exercise his right to be represented by counsel.

26 3. On or about March 22, 1984, the Board issued Pharmacist License No. RPH 38375 to
27 Eric Stafford Johnson ("Respondent"). The Pharmacist License was in full force and effect at all

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1 times relevant to the charges brought in Accusation No. 6011 and will expire on September 30,
2 2017, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 6011 was filed before the ("Board"), and is currently pending against
5 Respondent. The Accusation and all other statutorily required documents were properly served
6 on Respondent on February 7, 2017. Respondent filed his Notice of Defense requesting to
7 surrender his license. A copy of Accusation No. 6011 is attached as Exhibit A and incorporated
8 by reference.

9 **ADVISEMENT AND WAIVERS**

10 5. Respondent has carefully read, and understands the charges and allegations in
11 Accusation No. 6011. Respondent also has carefully read, and understands the effects of this
12 Stipulated Surrender of License and Order.

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

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

22 **CULPABILITY**

23 8. Respondent admits the truth of each and every charge and allegation in Accusation
24 No. 6011, agrees that cause exists for discipline and hereby surrenders his Pharmacist License
25 No. RPH 38375 for the Board's formal acceptance.

26 9. Respondent understands that by signing this stipulation he enables the Board to issue
27 an order accepting the surrender of his Pharmacist License without further process.

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CONTINGENCY

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

11. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

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

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

ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 38375, issued to Respondent Eric Stafford Johnson, is surrendered and accepted by the Board of Pharmacy.

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

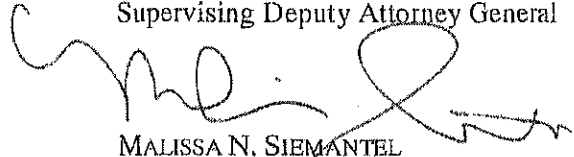
ENDORSEMENT

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

Dated: 3/6/17

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General



MALISSA N. SIEMANTEL
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 6011

1 XAVIER BECERRA
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 MALISSA N. SIEMANTEL
Deputy Attorney General
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1300 I Street, Suite 125
5 P.O. Box 944255
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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 6011

12 **ERIC STAFFORD JOHNSON**
38144 Blackbranch Rd.
13 Oakhurst, California 93644
14 **Pharmacist License No. RPH 38375**

A C C U S A T I O N

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold ("Complainant") brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21 2. On or about March 22, 1984, the Board of Pharmacy issued Pharmacist License
22 Number RPH 38375 to Eric Stafford Johnson ("Respondent"). The Pharmacist License was in full
23 force and effect at all times relevant to the charges brought herein and will expire on September
24 30, 2017, unless renewed.

25 **JURISDICTION**

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

1 4. Code section 4083 states, in pertinent part:

2 (a) An inspector may issue an order of correction to a licensee directing the licensee
3 to comply with this chapter or regulations adopted pursuant to this chapter.

4 (f) Nothing in this section shall in any way limit the board's authority or ability to do
5 any of the following:

6 (3) Institute disciplinary proceedings pursuant to Article 19 (commencing with
7 Section 4300).

8 5. Code section 4300 states, in pertinent part:

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

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

13 (1) Suspending judgment.

14 (2) Placing him or her upon probation.

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

16 (4) Revoking his or her license.

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

19 6. Code section 4300.1 states:

20 The expiration, cancellation, forfeiture, or suspension of a board-issued license by
21 operation of law or by order or decision of the board or a court of law, the placement
22 of a license on a retired status, or the voluntary surrender of a license by a licensee
23 shall not deprive the board of jurisdiction to commence or proceed with any
24 investigation of, or action or disciplinary proceeding against, the licensee or to render
25 a decision suspending or revoking the license.

26 STATUTORY PROVISIONS

27 7. Code section 4301 states, in pertinent part:

28 The board shall take action against any holder of a license who is guilty of
unprofessional conduct or whose license has been issued by mistake.
Unprofessional conduct shall include, but is not limited to, any of the following:

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

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1 (h) The administering to oneself, of any controlled substance, or the use of any
2 dangerous drug or of alcoholic beverages to the extent or in a manner as to be
3 dangerous or injurious to oneself, to a person holding a license under this chapter,
4 or to any other person or to the public, or to the extent that the use impairs the
5 ability of the person to conduct with safety to the public the practice authorized by
6 the license.

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

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

14 8. Health and Safety Code section 11170 states, "No person shall prescribe, administer,
15 or furnish a controlled substance for himself."

16 9. Health and Safety Code section 11171 states, "No person shall prescribe, administer,
17 or furnish a controlled substance except under the conditions and in the manner provided by this
18 division."

19 10. Health and Safety Code section 11173, subdivision (a) states:

20 No person shall obtain or attempt to obtain controlled substances, or procure or
21 attempt to procure the administration of or prescription for controlled substances,
22 (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of
23 a material fact.

24 COST RECOVERY

25 11. Code section 125.3 states, in pertinent part, that the Board may request the
26 administrative law judge to direct a licentiate found to have committed a violation or violations of
27 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
28 enforcement of the case.

29 DRUG CLASSIFICATIONS

30 12. Lorazepam is a Schedule IV controlled substance as designated by Health and Safety
31 Code section 11057(d)(16) and a dangerous drug pursuant to Code section 4022. Lorazepam is
32 used to treat anxiety and is a mind-altering drug.

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1 13. Promethazine with codeine is a Schedule V controlled substance as designated by
2 Health and Safety Code section 11058(c)(1) and a dangerous drug pursuant to Code section 4022.
3 Promethazine with codeine syrup is used to treat cough.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Self Administration of Controlled Substance and Dangerous Drug)**

6 14. Respondent is subject to disciplinary action for unprofessional conduct under Code
7 section 4301, subdivision (h), in that on or about and between May 1, 2015, and January 8, 2016,
8 Respondent self-administered lorazepam and promethazine with codeine, both controlled
9 substances and dangerous drugs, to the extent or in a manner as to be dangerous or injurious to
10 himself or others in that Respondent did not have a prescription for lorazepam and promethazine
11 with codeine. Respondent admitted to a Board investigator that he took lorazepam and
12 promethazine with codeine from his place of employment for personal use and used the controlled
13 substances.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Violating Laws Regulating Controlled Substances and Dangerous Drugs)**

16 15. Respondent is subject to disciplinary action for unprofessional conduct under Code
17 section 4301, subdivision (j), in that on or about and between May 1, 2015, and January 8, 2016,
18 Respondent violated California laws regulating controlled substances and dangerous drugs as
19 follows:

20 a. Respondent violated Health and Safety Code section 11170, in that Respondent self-
21 administered lorazepam and promethazine with codeine, controlled substances, as set forth in
22 paragraph 14, above.

23 b. Respondent violated Health and Safety Code section 11171, in that Respondent
24 unlawfully possessed lorazepam and promethazine with codeine, controlled substances, without a
25 valid prescription, as set forth in paragraph 14, above.

26 c. Respondent violated Health and Safety Code section 11173, subdivision (a), in that
27 Respondent obtained lorazepam and promethazine with codeine, controlled substances, by fraud,
28 deceit, or subterfuge, as set forth in paragraph 14, above.

1 THIRD CAUSE FOR DISCIPLINE

2 (Commission of Acts Involving Fraud or Deceit)

3 16. Respondent is subject to disciplinary action for unprofessional conduct under Code
4 section 4301, subdivision (f), in that on or about and between May 1, 2015, and January 8, 2016,
5 Respondent committed acts involving fraud or deceit when Respondent stole lorazepam and
6 promethazine with codeine from his place of employment while he was working as a pharmacist.

7 FOURTH CAUSE FOR DISCIPLINE

8 (Violating Laws Governing Pharmacy)

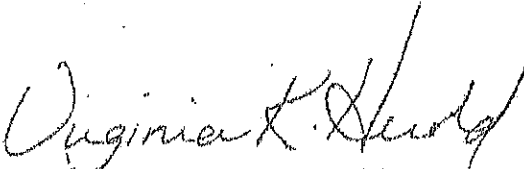
9 17. Respondent is subject to disciplinary action for unprofessional conduct under Code
10 section 4301, subdivision (o), in that Respondent violated terms or provisions of the Pharmacy
11 Law, as set forth above in paragraphs 14 through 16, above.

12 PRAYER

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

- 15 1. Revoking or suspending Pharmacist License Number RPH 38375, issued to Eric
16 Stafford Johnson;
- 17 2. Ordering Eric Stafford Johnson to pay the Board of Pharmacy the reasonable costs of
18 the investigation and enforcement of this case, pursuant to Business and Professions Code section
19 125.3; and,
- 20 3. Taking such other and further action as deemed necessary and proper.

21
22
23 DATED: 11/27/17


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

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