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

In the Matter of the Accusation/Petition to
Revoke Probation Against:

ERIC JOSEPH SPECK
5402 Stonehurst Drive
Martinez, CA 94553

Pharmacist License No. RPH 67348

Respondent.

Case No. 6026
DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about April 28, 2017, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation/Petition to Revoke Probation No. 6026 against Eric Joseph Speck (Respondent) before the Board of Pharmacy. (Accusation/Petition to Revoke Probation attached as Exhibit A.)
2. On or about July 26, 2012, the Board of Pharmacy (Board) issued Pharmacist License No. RPH 67348 to Respondent. The Pharmacist License was in full force and effect at all times relevant to the charges brought in Accusation/Petition to Revoke Probation No. 6026 and will expire on July 31, 2018, unless renewed.

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1 3. On or about August 23, 2017, Respondent was served by Certified and First Class
2 Mail copies of the Accusation/Petition to Revoke Probation No. 6026, Statement to Respondent,
3 Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections
4 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business
5 and Professions Code section 4100, is required to be reported and maintained with the Board.
6 Respondent's address of record was and is: 311 Carriage Lane, Oakdale, CA 95361. In addition,
7 service by Certified and First Class Mail was also made on August 23, 2017 to another address
8 for Respondent known to the Board, which served as his address of record from September 19,
9 2014 to November 4, 2016: 4077 Coralee Lane, Lafayette, CA 94549. And finally, on or about
10 May 9, 2017, Respondent was served with the same materials by Certified and First Class Mail to
11 another address know to the Board, which served as his address of record from July 26, 2012 to
12 July 10, 2013: 5402 Stonehurst Drive, Martinez, CA 94553. On or about May 22, 2017, copies
13 of the documents served to the 5402 Stonehurst Drive address were returned by the U.S. Postal
14 Service marked "Not Here." No documents were returned from the other attempts at service.

15 4. Service of the Accusation/Petition to Revoke Probation was effective as a matter of
16 law under the provisions of Government Code section 11505, subdivision (c) and/or Business &
17 Professions Code section 124. Respondent failed to maintain an updated address with the Board
18 and the Board has made attempts to serve the Respondent at the address on file. Respondent has
19 not made himself available for service and therefore, has not availed himself of his right to file a
20 notice of defense and appear at hearing.

21 5. Government Code section 11506(c) states, in pertinent part:

22 (c) The respondent shall be entitled to a hearing on the merits if the respondent
23 files a notice of defense . . . and the notice shall be deemed a specific denial of all
24 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
25 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
26 discretion may nevertheless grant a hearing.

27 6. The Board takes official notice of its records and the fact that Respondent failed to
28 file a Notice of Defense within 15 days after service upon him of the Accusation/Petition to
Revoke Probation, and therefore waived his right to a hearing on the merits of
Accusation/Petition to Revoke Probation No. 6026.

1 7. California Government Code section 11520(a) states, in pertinent part:

2 (a) If the respondent either fails to file a notice of defense . . . or to appear at
3 the hearing, the agency may take action based upon the respondent's express
4 admissions or upon other evidence and affidavits may be used as evidence without
any notice to respondent

5 8. Pursuant to its authority under Government Code section 11520, the Board finds
6 Respondent is in default. The Board will take action without further hearing and, based on the
7 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
8 taking official notice of all the investigatory reports, exhibits and statements contained therein on
9 file at the Board's offices regarding the allegations contained in Accusation/Petition to Revoke
10 Probation No. 6026, finds that the charges and allegations in Accusation/Petition to Revoke
11 Probation No. 6026, are separately and severally, found to be true and correct by clear and
12 convincing evidence.

13 9. Taking official notice of its own internal records, pursuant to Business and
14 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
15 and Enforcement of this case are \$4,266.25 as of September 22, 2017.

16 DETERMINATION OF ISSUES

17 1. Based on the foregoing findings of fact, Respondent Eric Joseph Speck has subjected
18 his Pharmacist License No. RPH 67348 to discipline.

19 2. The agency has jurisdiction to adjudicate this case by default.

20 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacist License
21 based upon the following violations alleged in the Accusation/Petition to Revoke Probation which
22 are supported by the evidence contained in the Default Decision Evidence Packet in this case:

23 **CAUSES FOR DISCIPLINE (ACCUSATION)**

24 a. Respondent is subject to discipline under section 4301(l) and/or section 490 of the
25 Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of
26 substantially related crime(s), in that on or about January 2, 2015, in *People v. Eric Joseph Speck*,
27 Case No. CM039984 in Butte County Superior Court, Respondent was convicted of violating
28 Penal Code section 594, subdivision (a) (Vandalism over \$400.00), a felony.

1 b. Respondent is subject to discipline under section 4301(h) of the Code, in that, as
2 described in Accusation/Petition to Revoke Probation No. 6026, Respondent self-administered
3 one or more controlled substances and/or used alcohol in a dangerous or injurious manner.

4 c. Respondent is subject to discipline under section 4301 of the Code in that, as
5 described in Accusation/Petition to Revoke Probation No. 6026, Respondent engaged in
6 unprofessional conduct.

7 **CAUSES TO REVOKE PROBATION (PETITION TO REVOKE)**

8 d. Respondent's termination from the Pharmacists Recovery Program (PRP), and failure
9 to complete his treatment contract therewith, subjects his License to revocation.

10 e. Respondent's failure to comply with his random drug screening requirements subjects
11 his License to revocation.

12 f. Respondent's failure(s) to timely cooperate with the Board's inspection program and
13 with the Board's monitoring and investigation of Respondent's compliance with terms and
14 conditions of his probation subject Respondent's License to revocation.

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ORDER

IT IS SO ORDERED that Pharmacist License No. RPH 67348, heretofore issued to Respondent Eric Joseph Speck, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective at 5:00 p.m. on November 23, 2017.

It is so ORDERED on October 24, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

41841425.DOC; DOJ Matter ID:SF2017202585

Attachment:

Exhibit A: Accusation/Petition to Revoke Probation

Exhibit A

Accusation/Petition to Revoke Probation

(ERIC JOSEPH SPECK)

1 XAVIER BECERRA
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant 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 **BEFORE THE**
8 **BOARD OF PHARMACY**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation and Petition to
Revoke Probation Against:

Case No. 6026

11 **ERIC JOSEPH SPECK**
12 **5402 Stonehurst Drive**
13 **Martinez, CA 94553**

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

14 **Pharmacist License No. RPH 67348**

15 Respondent.

16 Complainant alleges:

17 PARTIES

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

21 2. On or about July 26, 2012, the Board of Pharmacy issued Pharmacist License No.
22 RPH 67348 to Eric Joseph Speck (Respondent). The License was in full force and effect at all
23 times relevant to the charges brought herein and will expire on July 31, 2018, unless renewed.

24 3. In a disciplinary action titled "In the Matter of the First Amended Accusation Against
25 Eric Joseph Speck," Case No. 4855, the Board of Pharmacy issued a Decision and Order effective
26 October 15, 2014, by which Respondent's Pharmacist License was revoked, with revocation
27 stayed in favor of probation for four (4) years with certain terms and conditions. A copy of that
28 Decision and Order is attached as Exhibit A and is incorporated herein by reference.

1 (l) The conviction of a crime substantially related to the qualifications, functions, and duties
2 of a licensee under this chapter.

3 10. Section 490 of the Code provides, in pertinent part, that the Board may suspend or
4 revoke a license when it finds that the licensee has been convicted of a crime substantially related
5 to the qualifications, functions or duties of the license.

6 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
7 administrative law judge to direct a licensee found to have committed a violation of the licensing
8 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

9 12. 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 her license or registration in a
15 manner consistent with the public health, safety, or welfare."

16 FACTUAL BACKGROUND

17 13. Between 2009 and 2013, Respondent exhibited a pattern of behavior and contact with
18 law enforcement agencies that is consistent with alcohol or drug use or abuse. This included,
19 prior to licensure, a February 14, 2009 arrest on suspicion of driving under the influence (DUI)
20 and a resulting April 23, 2009 conviction, in *People v. Eric Joseph Speck*, Case No. 09001705 in
21 Yolo County Superior Court, of violating Vehicle Code section 23152, subdivision (b) (Driving
22 With Blood Alcohol of 0.08% or Greater), a misdemeanor, and the following, after licensure:

- 23 • An April 15, 2013 arrest on suspicion of DUI and of carrying a concealed firearm on
24 his person;
- 25 • An April 24, 2013 arrest on suspicion of vandalism and public intoxication;
 - 26 ○ A resulting June 18, 2013 conviction, in *People v. Eric Joseph Speck*, Case
27 No. 13-02562 in Shasta County Superior Court, of violating Penal Code
28 section 246.3 (Discharge of Firearm with Gross Negligence), a

1 misdemeanor,¹ Penal Code section 594, subdivision (b)(2)(A) (Vandalism
2 Less than \$400.00), a misdemeanor, and Penal Code section 647,
3 subdivision (f) (Public Intoxication), a misdemeanor;

- 4 • A September 21, 2013 arrest on suspicion of vandalism and public intoxication; and
- 5 ○ A resulting January 2, 2015 conviction, in *People v. Eric Joseph Speck*, Case
6 No. CM039984 in Butte County Superior Court, of violating Penal Code
7 section 594, subdivision (a) (Vandalism over \$400.00), a felony.

8 14. Respondent's Pharmacist License is currently the subject of a disciplinary Decision
9 and Order of the Board in Case No. 4855, which revoked his License, with revocation stayed in
10 favor of a probation of four (4) years. That discipline was prompted by Respondent's April 15,
11 2013 arrest, his June 18, 2013 conviction, and his September 21, 2013 arrest. The prior discipline
12 did not take into account Respondent's January 2, 2015 conviction.

13 15. On or about May 6, 2016, at a San Diego hotel, Respondent exhibited erratic and
14 violent/self-damaging behavior. This led to a call to emergency responders and police, who
15 subdued Respondent and transported him for medical treatment under an involuntary Welfare and
16 Institutions Code section 5150 hold. Following this incident, and triggered by the section 5150
17 hold, the California Bureau of Firearms took action to confiscate firearms from Respondent.

18 16. Respondent had been enrolled in the Pharmacists Recovery Program (PRP) since
19 November 5, 2014. When PRP staff were made aware of the May 6, 2016 incident, Respondent
20 was scheduled for a clinical reassessment. That reassessment concluded, in or about March 2017,
21 that he was not safe to practice independently as a pharmacist, and required Respondent to enter a
22 90-day treatment facility. Respondent declined, and also said he would no longer participate in
23 his health support group or cooperate with drug testing. On or about April 3, 2017, Respondent
24 was terminated from the PRP, deemed a public risk, and referred to the Board for further action.

25 17. On or about April 8, 2017, Respondent was arrested on suspicion of violating Penal
26 Code section 647, subdivision (f) (Public Intoxication).

27
28 ¹ Count one was subsequently dismissed pursuant to agreement by the District Attorney.

1 **CAUSES FOR DISCIPLINE (ACCUSATION)**

2 FIRST CAUSE FOR DISCIPLINE

3 (Conviction of Substantially Related Crime(s))

4 18. Respondent is subject to discipline under section 4301(l) and/or section 490 of the
5 Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of
6 substantially related crime(s), in that on or about January 2, 2015, in *People v. Eric Joseph Speck*,
7 Case No. CM039984 in Butte County Superior Court, Respondent was convicted of violating
8 Penal Code section 594, subdivision (a) (Vandalism over \$400.00), a felony.

9 SECOND CAUSE FOR DISCIPLINE

10 (Self-Administration of Controlled Substance/Dangerous or Injurious Use of Alcohol)

11 19. Respondent is subject to discipline under section 4301(h) of the Code, in that, as
12 described in paragraphs 13-17 above, Respondent self-administered one or more controlled
13 substances and/or used alcohol in a dangerous or injurious manner.

14 THIRD CAUSE FOR DISCIPLINE

15 (Unprofessional Conduct)

16 20. Respondent is subject to discipline under section 4301 of the Code in that, as
17 described in paragraphs 13-19 above, Respondent engaged in unprofessional conduct.

18
19 **CAUSES TO REVOKE PROBATION (PETITION TO REVOKE)**

20 FIRST CAUSE TO REVOKE PROBATION

21 (Failure to Successfully Complete PRP)

22 21. At all times after the effective date (October 15, 2014) of the Decision and Order
23 imposing probation on Respondent's License, Term and Condition 16 of that Order required that
24 Respondent enroll, successfully participate in, and complete his treatment contract and/or any
25 addendums with, the Pharmacists Recovery Program (PRP), and further specified that failure to
26 successfully participate in and complete the treatment contract and/or any addendums with the
27 PRP would be considered a violation of probation. Accordingly, Respondent's termination from
28 the PRP and failure to complete his treatment contract subjects his License to revocation.

1 If respondent violates probation in any respect, the board, after giving respondent
2 notice and an opportunity to be heard, may revoke probation and carry out the disciplinary
3 order that was stayed. Notice and opportunity to be heard are not required for those
4 provisions stating that a violation thereof may lead to automatic termination of the stay
5 and/or revocation of the license. If a petition to revoke probation or an accusation is filed
6 against respondent during probation, or if the board has submitted a request to the Attorney
7 General's Office to prepare an accusation or petition to revoke probation, the board shall
8 have continuing jurisdiction, and the period of probation shall be automatically extended
9 until the petition to revoke probation or accusation is heard and decided.

10 25. Pursuant to the operation of Term and Condition 14 of the probation order applicable
11 to Respondent's License, probation is automatically extended by the filing hereof, and/or by
12 Respondent's failure to comply with the terms and conditions of probation, until such time as this
13 Petition to Revoke Probation is heard and decided, or until the Board has taken other action as
14 deemed appropriate to treat the failure to comply as a violation of probation.

15 DISCIPLINE CONSIDERATIONS

16 26. To assist in determining the proper level of discipline, if any, to be imposed on
17 Respondent, Complainant further alleges that in addition to the conviction identified in the First
18 Cause for Discipline (paragraph 18, above), Respondent has on his record two prior convictions
19 (in 2009 and 2013; see paragraph 13), two other arrests (in 2013 and 2017; see paragraphs 13 and
20 17), and an involuntary psychiatric hold and gun confiscation order (in 2016; see paragraph 15).

21 PRAYER

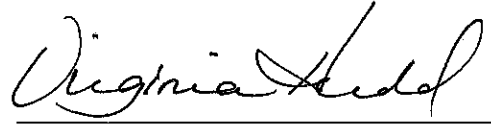
22 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
23 Accusation and Petition to Revoke Probation, and that following the hearing, the Board of
24 Pharmacy issue a decision:

25 1. Revoking the probation that was granted by the Board of Pharmacy in Case No. 4855
26 and imposing the disciplinary order that was stayed, thereby revoking Pharmacist License No.
27 RPH 67348, issued to Eric Joseph Speck (Respondent);
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- 2. Revoking or suspending Pharmacist License No. RPH 67348, issued to Respondent;
- 3. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
- 4. Taking such other and further action as is deemed necessary and proper.

DATED: 4/28/17



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

SF2017202585
41745117.docx

Exhibit A

Decision and Order

Board of Pharmacy Case No. 4855

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

In the Matter of the First Amended Accusation
Against:

ERIC JOSEPH SPECK
4077 Coralee Lane
Lafayette, CA 94549

Pharmacist License No. RPH 67348

Respondent.

Case No. 4855

OAH No. 2013120019

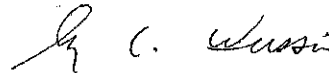
DECISION AND ORDER

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 October 15, 2014.

It is so ORDERED on October 8, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 JOSHUA A. ROOM
Supervising Deputy Attorney General
3 BRETT A. KINGSBURY
Deputy Attorney General
4 State Bar No. 243744
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1192
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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

10 In the Matter of the First Amended Accusation
11 Against:

Case No. 4855

12 **ERIC JOSEPH SPECK**
13 **426 Ridgecrest Trail #125**
Redding, CA 96003
14 **Pharmacist License No. RPH 67348**

OAH No. 2013120019
STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 Respondent.

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 She brought this action solely in her official capacity and is represented in this matter by Kamala
22 D. Harris, Attorney General of the State of California, by Brett A. Kingsbury, Deputy Attorney
23 General.

24 2. Respondent Eric Joseph Speck (Respondent) is represented in this proceeding by
25 attorney Paul Chan, whose address is: Paul Chan, Capitol Law Offices, 2311 Capitol Avenue,
26 Sacramento, CA, 95816.

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1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in First Amended
3 Accusation No. 4855, if proven at a hearing, constitute cause for imposing discipline upon his
4 Pharmacist License.

5 10. For the purpose of resolving the First Amended Accusation without the expense and
6 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could
7 establish a factual basis for the charges in the First Amended Accusation, and that Respondent
8 hereby gives up his right to contest that factual basis and those charges.

9 11. Respondent agrees that his Pharmacist License is subject to discipline and he agrees
10 to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

11 RESERVATION

12 12. The admissions made by Respondent herein are only for the purposes of this
13 proceeding, or any other proceedings in which the Board of Pharmacy or other professional
14 licensing agency is involved, and shall not be admissible in any other criminal or civil
15 proceeding.

16 CONTINGENCY

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

26 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
27 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
28 signatures thereto, shall have the same force and effect as the originals.

1 **2. Report to the Board**

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

10 **3. Interview with the Board**

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

16 **4. Cooperate with Board Staff**

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

20 **5. Continuing Education**

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

23 **6. Notice to Employers**

24 During the period of probation, respondent shall notify all present and prospective
25 employers of the decision in case number 4855 and the terms, conditions and restrictions imposed
26 on respondent by the decision, as follows:

27 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
28 respondent undertaking any new employment, respondent shall cause his direct supervisor,

1 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
2 tenure of employment) and owner to report to the board in writing acknowledging that the listed
3 individual(s) has/have read the decision in case number 4855, and terms and conditions imposed
4 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)
5 submit timely acknowledgment(s) to the board.

6 If respondent works for or is employed by or through a pharmacy employment service,
7 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
8 licensed by the board of the terms and conditions of the decision in case number 4855 in advance
9 of the respondent commencing work at each licensed entity. A record of this notification must be
10 provided to the board upon request.

11 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
12 (15) days of respondent undertaking any new employment by or through a pharmacy employment
13 service, respondent shall cause his direct supervisor with the pharmacy employment service to
14 report to the board in writing acknowledging that he has read the decision in case number 4855
15 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
16 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

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

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

26 During the period of probation, respondent shall not supervise any intern pharmacist, be the
27 pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board
28

1 nor serve as a consultant unless otherwise specified in this order. Assumption of any such
2 unauthorized supervision responsibilities shall be considered a violation of probation.

3 **8. Reimbursement of Board Costs**

4 As a condition precedent to successful completion of probation, respondent shall pay to the
5 board its costs of investigation and prosecution in the amount of \$5,649. Respondent shall make
6 said payments according to a payment plan approved by the board.

7 There shall be no deviation from this payment plan absent prior written approval by the
8 board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a
9 violation of probation.

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

12 **9. Probation Monitoring Costs**

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

17 **10. Status of License**

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

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

25 **11. License Surrender While on Probation/Suspension**

26 Following the effective date of this decision, should respondent cease practice due to
27 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
28 respondent may tender his license to the board for surrender. The board or its designee shall have

1 the discretion whether to grant the request for surrender or take any other action it deems
2 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent
3 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
4 record of discipline and shall become a part of the respondent's license history with the board.

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

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

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

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

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

20 **13. Tolling of Probation**

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

27 Should respondent, regardless of residency, for any reason (including vacation) cease
28 practicing as a pharmacist for a minimum of 40 hours per calendar month in California,

1 respondent must notify the board in writing within ten (10) days of the cessation of practice, and
2 must further notify the board in writing within ten (10) days of the resumption of practice. Any
3 failure to provide such notification(s) shall be considered a violation of probation.

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

7 "Cessation of practice" means any calendar month during which respondent is
8 not practicing as a pharmacist for at least 40 hours, as defined by Business and
9 Professions Code section 4000 et seq. "Resumption of practice" means any calendar
10 month during which respondent is practicing as a pharmacist for at least 40 hours as a
11 pharmacist as defined by Business and Professions Code section 4000 et seq.

12 **14. Violation of Probation**

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

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

27 ///

28 ///

1 **15. Completion of Probation**

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

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

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

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

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

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

19 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
20 licensed practitioner as part of a documented medical treatment shall, without further evidence of
21 drug or alcohol use, result in the automatic suspension of practice by respondent and be
22 considered a violation of probation. Respondent may not resume the practice of pharmacy until
23 notified by the board in writing.

24 During suspension, respondent shall not enter any pharmacy area or any portion of the
25 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
26 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
27 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
28 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient

1 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
2 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
3 and controlled substances. Respondent shall not resume practice until notified by the board.

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

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

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

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

15 **17. Random Drug Screening**

16 Respondent, at his own expense, shall participate in random testing, including but not
17 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
18 screening program as directed by the board or its designee. Respondent may be required to
19 participate in testing for the entire probation period and the frequency of testing will be
20 determined by the board or its designee. At all times, respondent shall fully cooperate with the
21 board or its designee, and shall, when directed, submit to such tests and samples for the detection
22 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its
23 designee may direct. Failure to timely submit to testing as directed shall be considered a violation
24 of probation. Upon request of the board or its designee, respondent shall provide documentation
25 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
26 a necessary part of the treatment of the respondent. Failure to timely provide such documentation
27 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
28 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment

1 shall be considered a violation of probation and shall result in the automatic suspension of
2 practice of pharmacy by respondent. Respondent may not resume the practice of pharmacy until
3 notified by the board in writing.

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

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

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

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

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

21 Respondent shall completely abstain from the possession or use of alcohol, controlled
22 substances, dangerous drugs and their associated paraphernalia except when the drugs are
23 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon
24 request of the board or its designee, respondent shall provide documentation from the licensed
25 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the
26 treatment of the respondent. Failure to timely provide such documentation shall be considered a
27 violation of probation. Respondent shall ensure that he is not in the same physical location as
28 individuals who are using illicit substances even if respondent is not personally ingesting the

1 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
2 not supported by the documentation timely provided, and/or any physical proximity to persons
3 using illicit substances, shall be considered a violation of probation.

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

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

26 If at any time an approved practitioner determines that respondent is unable to practice
27 safely or independently as a pharmacist, the practitioner shall notify the board immediately by
28 telephone and follow up by written letter within three (3) working days. Upon notification from

1 the board or its designee of this determination, respondent shall be automatically suspended and
2 shall not resume practice until notified by the board that practice may be resumed.

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

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

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

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

19 **20. Community Services Program**

20 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
21 board or its designee, for prior approval, a community service program in which respondent shall
22 provide free health-care related services on a regular basis to a community or charitable facility or
23 agency for at least 48 hours per year for the first two years of probation. Within thirty (30) days
24 of board approval thereof, respondent shall submit documentation to the board demonstrating
25 commencement of the community service program. A record of this notification must be
26 provided to the board upon request. Respondent shall report on progress with the community
27 service program in the quarterly reports. Failure to timely submit, commence, or comply with the
28 program shall be considered a violation of probation.

1 **21. Supervised Practice**

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

7 Continuous – At least 75% of a work week

8 Substantial - At least 50% of a work week

9 Partial - At least 25% of a work week

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

11 Within thirty (30) days of the effective date of this decision, respondent shall have his
12 supervisor submit notification to the board in writing stating that the supervisor has read the
13 decision in case number 4855 and is familiar with the required level of supervision as determined
14 by the board or its designee. It shall be the respondent's responsibility to ensure that his
15 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
16 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
17 acknowledgements to the board shall be considered a violation of probation.

18 If respondent changes employment, it shall be the respondent's responsibility to ensure that
19 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
20 the board. Respondent shall have his new supervisor, within fifteen (15) days after employment
21 commences, submit notification to the board in writing stating the direct supervisor and
22 pharmacist-in-charge have read the decision in case number 4855 and is familiar with the level of
23 supervision as determined by the board. Respondent shall not practice pharmacy and his license
24 shall be automatically suspended until the board or its designee approves a new supervisor.
25 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
26 acknowledgements to the board shall be considered a violation of probation.

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

28 During suspension, respondent shall not enter any pharmacy area or any portion of the

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

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

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

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

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

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

24 **23. Ethics Course**

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

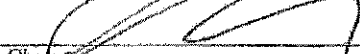
1 Respondent shall submit a certificate of completion to the board or its designee within five
2 days after completing the course.

3 ACCEPTANCE

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

9
10 DATED: 8/15/14 
11 ERIC JOSEPH SPECK
12 Respondent

13 I have read and fully discussed with Respondent Eric Joseph Speck the terms and
14 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
15 I approve its form and content.

16 DATED: 8-18-14 
17 Paul Chan
18 Attorney for Respondent

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ENDORSEMENT

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

Dated: Sept 15, 2014

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
JOSHUA A. ROOM
Supervising Deputy Attorney General


BRETT A. KINGSBURY
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 4855

1 KAMALA D. HARRIS
Attorney General of California
2 JOSHUA A. ROOM
Supervising Deputy Attorney General
3 BRETT A. KINGSBURY
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4 State Bar No. 243744
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Attorneys for Complainant

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

10 In the Matter of the First Amended Accusation
11 Against:

Case No. 4855

12 **ERIC JOSEPH SPECK**
13 **5402 Stonehurst Drive**
Martinez, CA 94553

FIRST AMENDED ACCUSATION

14 **Pharmacist License No. RPH 67348**

15 Respondent.

16
17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about July 26, 2012, the Board of Pharmacy issued Pharmacist License Number
24 RPH 67348 to Eric Joseph Speck (Respondent). The Pharmacist License was in full force and
25 effect at all times relevant to the charges brought herein and will expire on July 31, 2014, unless
26 renewed.

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1 **JURISDICTIONAL, STATUTORY & REGULATORY PROVISIONS**

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

5 4. Section 4300 of the Code states:

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

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

10 (1) Suspending judgment.

11 (2) Placing him or her upon probation.

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

13 (4) Revoking his or her license.

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

16 ". . . .

17 (e) The proceedings under this article shall be conducted in accordance with Chapter 5
18 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
19 shall have all the powers granted therein. The action shall be final, except that the propriety of the
20 action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil
21 Procedure."

22 5. Section 4300.1 of the Code states:

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

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1 6. Section 4301 of the Code states:

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

5 ". . . .

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

11 ". . . .

12 "(l) The conviction of a crime substantially related to the qualifications, functions, and
13 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
14 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
15 substances or of a violation of the statutes of this state regulating controlled substances or
16 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
17 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
18 The board may inquire into the circumstances surrounding the commission of the crime, in order
19 to fix the degree of discipline or, in the case of a conviction not involving controlled substances or
20 dangerous drugs, to determine if the conviction is of an offense substantially related to the
21 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
22 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
23 of this provision. The board may take action when the time for appeal has elapsed, or the
24 judgment of conviction has been affirmed on appeal or when an order granting probation is made
25 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
26 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
27 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
28 indictment.

1 7. Section 4022 of the Code states:

2 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in
3 humans or animals, and includes the following:

4 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without
5 prescription," "Rx only," or words of similar import.

6 "(b) Any device that bears the statement: "Caution: federal law restricts this device to sale
7 by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled
8 in with the designation of the practitioner licensed to use or order use of the device.

9 "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
10 prescription or furnished pursuant to Section 4006."

11 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
12 revoke a license on the ground that the licensee has been convicted of a crime substantially related
13 to the qualifications, functions, or duties of the business or profession for which the license was
14 issued.

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

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

22 **COSTS**

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

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28 ///

1 **DRUGS**

2 11. **Toluene** is an intoxicating substance commonly used in products such as paint, glue,
3 and paint thinner and a dangerous drug pursuant to section 4022 of the Code. Penal Code section
4 381 makes being under the influence of toluene a misdemeanor.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Dangerous Use of Dangerous Drug)**

7 12. Respondent is subject to disciplinary action under section 4301(h) of the Code in that
8 Respondent used a dangerous drug in a manner that was dangerous to himself, to others, or to the
9 public. The circumstances are as follows:

10 13. On or about April 15, 2013, Respondent was arrested after driving his vehicle while
11 intoxicated and failing a field sobriety test. When initially approached by police, Respondent
12 stated he had a gun and started to reach for it before officers stopped him.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Criminal Conviction)**

15 14. Respondent is subject to disciplinary action under sections 490 and/or 4301(l) of the
16 Code in that Respondent was convicted of a crime substantially related to the qualifications,
17 functions, or duties of a pharmacist. The circumstances are as follows:

18 15. On or about June 18, 2013, in the Superior Court of California for the County of
19 Shasta, in the case entitled *The People of the State of California v. Eric Joseph Speck*, Docket #
20 MC RD CRF 130002562, Respondent pled no contest to and was found guilty of violating
21 California Penal Code sections 246.3 (Discharge of Firearm with Gross Negligence), a
22 misdemeanor, 594(b)(2)(A) (Vandalism Less Than \$400), a misdemeanor, and 647(f) (Public
23 Intoxication), a misdemeanor. The circumstances were that on or about April 24, 2013, while
24 heavily intoxicated on a combination of toluene and/or other drugs and/or alcohol, Respondent
25 discharged a firearm in his home and subsequently kicked down the door to a neighbor's
26 residence.

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THIRD CAUSE FOR DISCIPLINE
(Dangerous Use of Alcohol or Dangerous Drug)

16. Respondent is subject to disciplinary action under section 4301(h) of the Code in that Respondent used a dangerous drug and/or alcohol to an extent or in a manner dangerous to himself, to others, or to the public. The circumstances are described above in the Second Cause for Discipline.

FOURTH CAUSE FOR DISCIPLINE
(Dangerous Use of Alcohol)

17. Respondent is subject to disciplinary action under section 4301(h) of the Code in that Respondent used alcohol to an extent or in a manner dangerous to himself, to others, or to the public. The circumstances were that on or around September 21, 2013, Respondent consumed alcohol at the Holiday Inn in Chico, California, while taking prescription medication not recommended to be mixed with alcohol. Asserting the hotel was on fire, Respondent engaged the fire line main, dumping large quantities of water onto the floor. Respondent then flipped over a large table, breaking the glass top, and began to try to break off one of the table legs. When hotel employees tried to stop Respondent, Respondent became violent, striking one of them. Respondent was subsequently restrained by hotel employees and arrested.

FIFTH CAUSE FOR DISCIPLINE
(Unprofessional Conduct)

18. Respondent is subject to disciplinary action under section 4301 of the Code in that Respondent engaged in unprofessional conduct. The circumstances are described above in the First, Second, and Fourth Causes for Discipline.

PRAYER

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

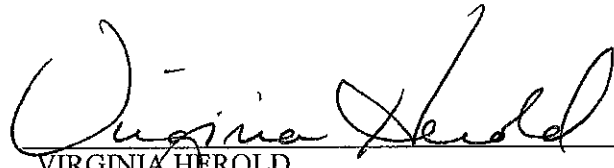
- 1. Revoking or suspending Pharmacist License Number RPH 67348, issued to Eric Joseph Speck;

1 2. Ordering Eric Joseph Speck to pay the Board of Pharmacy the reasonable costs of the
2 investigation and enforcement of this case, pursuant to Business and Professions Code section
3 125.3;

4 3. Taking such other and further action as deemed necessary and proper.
5

6
7 DATED: _____

6/13/14



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

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

In the Matter of the Accusation/Petition to Revoke Probation Against:

**ERIC JOSEPH SPECK
5402 Stonehurst Drive
Martinez, CA 94553**

Pharmacist License No. RPH 67348

Respondent.

Case No. 6026

**DEFAULT DECISION INVESTIGATORY
EVIDENCE PACKET**

[Gov. Code §11520]

The Default Decision Investigatory Evidence Packet in support of the Default Decision and Order in the above entitled matter consists of the following.

Exhibit 1: Pleadings offered for jurisdictional purposes: Accusation/Petition to Revoke Probation No. 6026; Statement to Respondent; Notice of Defense (two blank copies); Request for Discovery; and Discovery Statutes (Government Code sections 11507.5, 11507.6 and 11507.7); proof of service; and copy of returned mail envelopes;

Exhibit 2: License History Certification for Eric Joseph Speck, Pharmacist License No. RPH 67348;

Exhibit 3: Certification of Costs by Board for Investigation and Enforcement in Case No. 6026, dated September 22, 2017;

Exhibit 4: Criminal Conviction Records, from:

- *People v. Eric Joseph Speck*, Case No. CM039984 in Butte County Superior Court - Respondent was convicted on January 2, 2015 of violating Penal Code section 594, subdivision (a) (Vandalism over \$400.00), a felony;
- *People v. Eric Joseph Speck*, Case No. 09001705 in Yolo County Superior Court - Respondent was convicted on April 23, 2009 of violating Vehicle Code section 23152, subdivision (b) (Driving With BAC of 0.08% or Greater), a misdemeanor;

- *People v. Eric Joseph Speck*, Case No. 13-02562 in Shasta County Superior Court – Respondent was convicted on June 18, 2013 of violating Penal Code section 246.3 (Discharge of Firearm with Gross Negligence), a misdemeanor, Penal Code section 594, subdivision (b)(2)(A) (Vandalism Less than \$400.00), a misdemeanor, and Penal Code section 647, subdivision (f) (Public Intoxication), a misdemeanor.

Exhibit 5: Redacted copies of Police Reports, from:

- An April 15, 2013 arrest by the California Highway Patrol (Citation/Case # 21264QA) on suspicion of DUI and of carrying a concealed firearm on his person;
- An April 8, 2017 arrest by the Oakdale Police Department (Case # OP17-01102) on suspicion of violating Penal Code section 647, subdivision (f) (Public Intoxication).

Exhibit 6: April 3, 2017 communication from Maximus regarding Respondent's termination from the Pharmacists Recovery Program as a public risk.

Dated: September 22, 2017

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
LINDA K. SCHNEIDER
Senior Assistant Attorney General

JOSHUA A. ROOM
Supervising Deputy Attorney General
Attorneys for Complainant

Exhibit 1

Accusation/Petition to Revoke Probation No. 6026
Statement to Respondent, Notice of Defense, Request for
Discovery and Discovery Statutes, proof of service; copy of
returned mail envelopes

(ERIC JOSEPH SPECK)

Exhibit 2

License History Certification for Respondent

(ERIC JOSEPH SPECK)

Exhibit 3

Certification of Costs

(ERIC JOSEPH SPECK)

Exhibit 4

Criminal Conviction Records

(ERIC JOSEPH SPECK)

Exhibit 5

Police Reports

Exhibit 6

Maximus Termination Letter

(ERIC JOSEPH SPECK)