

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

In the Matter of the Statement of Issues Against:

STEPHEN MASON OTIS
5134 Whitman Way, Apt. 311
Carlsbad, CA 92008-4658

Respondent.

Case No. 3045

OAH No.

DECISION AND ORDER


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

This Decision shall become effective on August 13, 2008.

It is so ORDERED July 14, 2008.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By


KENNETH H. SCHELL
Board President

EDMUND G. BROWN JR., Attorney General
of the State of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General
SHERRY L. LEDAKIS, State Bar No. 131767
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Attorneys for Complainant

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

In the Matter of the Statement of Issues Against:

STEPHEN MASON OTIS
5134 Whitman Way, Apt. 311
Carlsbad, CA 92008-4658

Respondent.

Case No. 3045

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

PARTIES

1. Virginia Herold (Complainant) is the Executive Officer of the Board of
Pharmacy. She brought this action solely in her official capacity and is represented in this matter
by Edmund G. Brown Jr., Attorney General of the State of California, by Sherry L. Ledakis,
Deputy Attorney General.

2. Respondent Stephen Mason Otis (respondent) is representing himself in
this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about February 16, 2006, Respondent filed an application dated
January 22, 2006, for licensure as a Pharmacist and for registration as an Intern Pharmacist. The

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1 applications were denied on June 12, 2006. Respondent timely filed an appeal on the denial and
2 request for hearing.

3 JURISDICTION

4 4. On July 19, 2007, Statement of Issues No. 3045 was filed before the Board
5 and is currently pending against Respondent. The Statement of Issues and all other statutorily
6 required documents were properly served on Respondent on August 9, 2007. Respondent timely
7 filed his Notice of Defense contesting the Statement of Issues. A copy of Statement of Issues No.
8 3045 is attached as exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations
11 in Statement of Issues No. 3045. Respondent has also carefully read, and understands the effects
12 of this Stipulated Settlement and Disciplinary Order.

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

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

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in
24 Statement of Issues No. 3045.

25 9. Respondent agrees that his application for licensure is subject to denial
26 and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary
27 Order below.

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1 **1. Take and Pass Licensing Examination.**

2 That, respondent first meet all statutory and regulatory requirements for the
3 issuance of a license to practice as a Pharmacist, including passing the pharmacist licensure
4 examination.

5 **2. Obey all Laws**

6 Respondent shall obey all state and federal laws and regulations substantially
7 related to or governing the practice of pharmacy. Respondent shall report any of the following
8 occurrences to the board, in writing, within 72 hours of such occurrence:

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

20 **3. Reporting to the Board**

21 Respondent shall report to the board quarterly. The report shall be made either in
22 person or in writing, as directed. Respondent shall state under penalty of perjury whether there
23 has been compliance with all the terms and conditions of probation. If the final probation report
24 is not made as directed, probation shall be extended automatically until such time as the final
25 report is made and accepted by the board.

26 **4. Interview with the Board**

27 Upon receipt of reasonable notice, respondent shall appear in person for
28 interviews with the board upon request at various intervals at a location to be determined by the

1 board. Failure to appear for a scheduled interview without prior notification to board staff shall
2 be considered a violation of probation.

3 **5. Cooperation with Board Staff**

4 Respondent shall cooperate with the board's inspectional program and in the
5 board's monitoring and investigation of respondent's compliance with the terms and conditions of
6 his or her probation. Failure to comply shall be considered a violation of probation.

7 **6. Notice to Employers**

8 Respondent shall notify all present and prospective employers of the decision in
9 case number 3045 and the terms, conditions and restrictions imposed on respondent by the
10 decision. Within 30 days of the effective date of this decision, and within 15 days of respondent
11 undertaking new employment, respondent shall cause his or her direct supervisor, pharmacist-in-
12 charge and/or owner to report to the board in writing acknowledging the employer has read the
13 decision in case number 3045.

14 If respondent works for or is employed by or through a pharmacy employment
15 service, respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at
16 every pharmacy of the and terms and conditions of the decision in case number 3045 in advance
17 of the respondent commencing work at each pharmacy.

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

21 **7. Probation Monitoring Costs**

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

26 **8. Status of Registration/License**

27 Respondent shall, at all times while on probation, maintain an active current
28 registration/license with the board, including any period during which suspension or probation is

1 tolled.

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

5 **9. Registration/License Surrender while on Probation/Suspension**

6 Following the effective date of this decision, should respondent cease practice due
7 to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
8 respondent may tender his or her registration/license to the board for surrender. The board shall
9 have the discretion whether to grant the request for surrender or take any other action it deems
10 appropriate and reasonable. Upon formal acceptance of the surrender of the registration/license,
11 respondent will no longer be subject to the terms and conditions of probation.

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

17 **10. Notification of Employment/Mailing Address Change**

18 Respondent shall notify the board in writing within 10 days of any change of
19 employment. Said notification shall include the reasons for leaving and/or the address of the new
20 employer, supervisor or owner and work schedule if known. Respondent shall notify the board
21 in writing within 10 days of a change in name, mailing address or phone number.

22 **11. Supervised Practice**

23 If respondent passes the pharmacist licensing examination, he shall
24 practice only under the supervision of a pharmacist not on probation with the board. Respondent
25 shall not practice until the supervisor is approved by the board. The supervision shall be, as
26 required by the board, either:

- 27 • Continuous - 75% to 100% of a work week
- 28 • Substantial - At least 50% of a work week

- Partial - At least 25% of a work week
- Daily Review - Supervisor's review of probationer's daily activities within 24 hours
- Within 30 days of the effective date of this decision, respondent shall have his or her supervisor submit notification to the board in writing stating the supervisor has read the decision in case number 3045 and is familiar with the level of supervision as determined by the board.

If respondent changes employment, respondent shall have his or her new supervisor, within 15 days after employment commences, submit notification to the board in writing stating the direct supervisor and pharmacist-in-charge have read the decision in case number 3045 and is familiar with the level of supervision as determined by the board.

Within 10, days of leaving employment, respondent shall notify the board in writing.

12. Tolling of Probation

Should respondent, regardless of residency, for any reason cease practicing pharmacy for a minimum of forty (40) hours per calendar month in California, respondent must notify the board in writing within 10 days of cessation of the practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time shall not apply to the reduction of the probation period. It is a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding three years.

13. Rehabilitation Program - Pharmacists Recovery Program (PRP)

Within 30 days of the effective date of this decision, respondent shall contact the Pharmacists Recovery Program for evaluation and shall successfully participate in and complete the treatment contract and any subsequent addendums as recommended and provided by the PRP and as approved by the board. The costs for PRP participation shall be borne by the respondent.

If respondent is currently enrolled in the PRP, said participation is now mandatory and is no longer considered a self-referral under Business and Professions Code section 4363, as

1 of the effective date of this decision. Respondent shall successfully participate in and complete
2 his or her current contract and any subsequent addendums with the PRP. Probation shall be
3 automatically extended until respondent successfully completes his or her treatment contract.
4 Any person terminated from the program shall be automatically suspended upon notice by the
5 board. Respondent may not resume the practice of pharmacy until notified by the board in
6 writing. The board shall retain jurisdiction to institute action to terminate probation for any
7 violation of this term.

8 14. **Random Drug Screening**

9 Respondent, at his or her own expense, shall participate in random testing,
10 including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle
11 testing, or a drug screening program approved by the board. The length of time shall be for the
12 entire probation period and the frequency of testing will be determined by the board. At all times
13 respondent shall fully cooperate with the board, and shall, when directed, submit to such tests
14 and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other
15 controlled substances. Failure to submit to testing as directed shall constitute a violation of
16 probation. Any confirmed positive drug test shall result in the immediate suspension of practice
17 by respondent. Respondent may not resume the practice of pharmacy until notified by the board
18 in writing.

19 15. **Abstain from Drugs and Alcohol Use**

20 Respondent shall completely abstain from the possession or use of alcohol,
21 controlled substances, dangerous drugs and their associated paraphernalia except when the drugs
22 are lawfully prescribed by a licensed practitioner as part of a documented medical treatment.
23 Upon request of the board, respondent shall provide documentation from the licensed practitioner
24 that the prescription was legitimately issued and is a necessary part of the treatment of the
25 respondent.

26 16. **No Ownership of Premises**

27 Respondent shall not own, have any legal or beneficial interest in, or serve as a
28 manager, administrator, member, officer, director, associate, or partner of any business, firm,

1 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
2 or transfer any legal or beneficial interest in any entity licensed by the board within 90 days
3 following the effective date of this decision and shall immediately thereafter provide written
4 proof thereof to the board.

5 If respondent leaves California to reside or practice outside this state, for any
6 period exceeding 10 days (including vacation), respondent must notify the board in writing of the
7 dates of departure and return. Periods of residency or practice outside the state - or any absence
8 exceeding a period of 10 days shall not apply to the reduction of the suspension period.

9 Respondent shall not practice pharmacy upon returning to this state until notified
10 by the board that the period of suspension has been completed.

11 **17. No Preceptorships, Supervision of Interns, Being Pharmacist-in-**
12 **Charge (PIC), or Serving as a Consultant**

13 Respondent shall not supervise any intern pharmacist or perform any of the duties
14 of a preceptor, nor shall respondent be the pharmacist-in-charge of any entity licensed by the
15 board unless otherwise specified in this order.

16 **18. Continuing Education**

17 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
18 pharmacist as directed by the board.

19 **19. Violation of Probation**

20 If respondent violates probation in any respect, the board, after giving respondent
21 notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order
22 which was stayed. If a petition to revoke probation or an accusation is filed against respondent
23 during probation, the board shall have continuing jurisdiction and the period of probation shall be
24 extended, until the petition to revoke probation or accusation is heard and decided.

25 If a respondent has not complied with any term or condition of probation, the
26 board shall have continuing jurisdiction over respondent, and probation shall automatically be
27 extended until all terms and conditions have been satisfied or the board has taken other action as

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1 deemed appropriate to treat the failure to comply as a violation of probation, to terminate
2 probation, and to impose the penalty which was stayed.

3 20. Completion of Probation

4 Upon successful completion of probation, respondent's registration/license will be
5 fully restored.

6 ACCEPTANCE

7 I have carefully read the Stipulated Settlement and Disciplinary Order. I
8 understand the stipulation and the effect it will have on my pharmacy registration/ license. I
9 enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and
10 intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

11 DATED: 4-17-2008

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13 _____
14 STEPHEN MASON OTIS
Respondent

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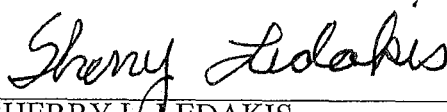
ENDORSEMENT

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

DATED: April 23, 2008

EDMUND G. BROWN JR., Attorney General
of the State of California

LINDA K. SCHNEIDER
Supervising Deputy Attorney General



SHERRY L. LEDAKIS
Deputy Attorney General
Attorneys for Complainant

DOJ Matter ID: SD2006802404
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Exhibit A
Statement of Issues No. 3045

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 SHERRY L. LEDAKIS, State Bar No. 131767
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8 Attorneys for Complainant
9

10 **BEFORE THE**
11 **BOARD OF PHARMACY**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Statement of Issues Against:

Case No. 3045

14 STEPHEN MASON OTIS
14545 Frank Lloyd Wright Blvd. #120
15 Scottsdale, AZ 85260

STATEMENT OF ISSUES

16 Respondent.
17

18 Complainant alleges:

19 PARTIES

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

23 2. On or about February 14, 2006, the Board of Pharmacy received an
24 application for a Pharmacist Licensure and Examination and registration as an intern pharmacist
25 from Stephen Mason Otis (Respondent). On or about January 22, 2006, Stephen Mason Otis
26 certified under penalty of perjury to the truthfulness of all statements, answers, and
27 representations in the application. The Board denied the application on June 12, 2006.

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1 The board may deny a license pursuant to this subdivision
2 only if the crime or act is substantially related to the qualifications, functions or
duties of the business or profession for which application is made.

3 (b) Notwithstanding any other provision of this code, no person
4 shall be denied a license solely on the basis that he has been convicted of a felony
if he has obtained a certificate of rehabilitation under Section 4852.01 and
5 following of the Penal Code or that he has been convicted of a misdemeanor if he
has met all applicable requirements of the criteria of rehabilitation developed by
6 the board to evaluate the rehabilitation of a person when considering the denial of
a license under subdivision (a) of Section 482.

7 (c) A board may deny a license regulated by this code on the
8 ground that the applicant knowingly made a false statement of fact required to be
revealed in the application for such license.

9 6. Section 482 of the Code states:

10 Each board under the provisions of this code shall develop criteria
11 to evaluate the rehabilitation of a person when:

12 (a) Considering the denial of a license by the board under Section
480; or

13 (b) Considering suspension or revocation of a license under
14 Section 490.

15 Each board shall take into account all competent evidence of
rehabilitation furnished by the applicant or licensee.

16 7. Section 493 of the Code states:

17 Notwithstanding any other provision of law, in a proceeding
18 conducted by a board within the department pursuant to law to deny an
application for a license or to suspend or revoke a license or otherwise take
19 disciplinary action against a person who holds a license, upon the ground that the
applicant or the licensee has been convicted of a crime substantially related to the
20 qualifications, functions, and duties of the licensee in question, the record of
conviction of the crime shall be conclusive evidence of the fact that the conviction
21 occurred, but only of that fact, and the board may inquire into the circumstances
surrounding the commission of the crime in order to fix the degree of discipline or
22 to determine if the conviction is substantially related to the qualifications,
functions, and duties of the licensee in question.

23 As used in this section, "license" includes "certificate," "permit,"
24 "authority," and "registration."

25 8. Section 4301 of the Code states:

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

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

5 (g) Knowingly making or signing any certificate or other document
6 that falsely represents the existence or nonexistence of a state of facts.

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

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

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

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30 (n) The revocation, suspension, or other discipline by another state
31 of a license to practice pharmacy, operate a pharmacy, or do any other act for
32 which a license is required by this chapter.

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1 9. Title 16, California Code of Regulations section 1770, states:

2 For the purpose of denial, suspension or revocation of a personal or
3 facility license . . . a crime or act shall be considered substantially related to the
4 qualifications, functions or duties of a licensee or registrant if to a substantial
5 degree it evidences present or potential unfitness of a licensee or registrant to
6 perform the functions authorized by his license or registration in a manner
7 consistent with the public health, safety, or welfare.

8 10. Title 16, California Code of Regulations section 1020, states:

9 (a) When considering the denial of a license under Section 480 of
10 the Code, the board in evaluating the rehabilitation of the applicant and his present
11 eligibility for a license, will consider the following criteria:

12 (1) The nature and severity of the act(s) or crime(s) under
13 consideration as grounds for denial.

14 (2) Evidence of any act(s) committed subsequent to the
15 act(s) or crime(s) under consideration as grounds for denial which also could be
16 considered as grounds for denial under Section 480 of the Code.

17 (3) The time that has elapsed since commission of the act(s)
18 or crime(s) referred to in subdivision (1) or (2).

19 (4) The extent to which the applicant has complied with any
20 terms of parole, probation, restitution, or any other sanctions lawfully imposed
21 against the applicant.

22 (5) Evidence, if any, of rehabilitation submitted by the
23 applicant.

24 **FIRST CAUSE FOR DENIAL OF APPLICATION**

25 **(Discipline Imposed by Another State Against Pharmacist License on September 3, 1997)**

26 11. Respondent's application is subject to denial under sections 480(a)(3) and
27 4301(n) of the Code in that Respondent's pharmacy license issued in Florida was suspended.

28 The circumstances are as follows:

 a. On or about September 3, 1997, in an administrative proceeding
entitled *Agency for Health Care Administration v. Stephen M. Otis*, before the State of Florida
Board of Pharmacy, case number 97-06132, Respondent entered into a stipulation and a final
order taking administrative action against Respondent's pharmacy license.

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1 b. As a result of the final order, Respondent's license to practice
2 pharmacy was suspended and he was required to enter into a written contract with Physician's
3 Recovery Network (PRN) to obtain drug treatment.

4 c. The facts that lead to the discipline were that on or about February
5 7 to February 15, 1997, while Respondent was employed by Medical Center Pharmacy in
6 Pensacola, Florida, Respondent illegally procured two Demerol prescriptions using fraudulent
7 authorizations while the pharmacy supervisor was on vacation. Respondent further filled a
8 prescription for a child with the incorrect antibiotic, was late to work and late returning from
9 lunch, appeared ill, and failed to report for work on one occasion. Respondent's employment
10 was terminated. As a result of the board's investigation into the matter, Respondent was deemed
11 unfit to practice pharmacy by reason of an abnormal physical or mental condition.

12 **SECOND CAUSE FOR DENIAL OF APPLICATION**

13 **(Federal Criminal Conviction on January 9, 1998, for Medicare Fraud)**

14 12. Respondent's application is subject to denial under sections 480(a)(1),
15 480(a)(3), and 4301(1) of the Code in that Respondent was convicted of an offense that is
16 substantially related to the qualifications, duties, and functions of a pharmacist. The
17 circumstances are as follows:

18 a. On or about October 21, 1997, in a criminal proceeding entitled
19 *United States v. Stephen Mason Otis*, United States District Court, Northern District of Florida
20 (Pensacola) in case number 97-cr-00105-RV-1, Respondent was convicted on his plea of guilty
21 to violating 18 U.S.C. § 287 (making false, fictitious, or fraudulent claims against the United
22 States), a felony.

23 b. As a result of the conviction, on or about January 9, 1998,
24 Respondent was sentenced to one month in federal prison, three years supervised release (with
25 conditions as to home detention, electronic monitoring, substance abuse treatment, and mental
26 health counseling), and \$2,000 in fines. On or about November 29, 2000, the federal court found
27 that Respondent violated the terms of his supervised release (see paragraph 13), and re-sentenced
28 Respondent to seven months in federal prison with no supervised release to follow.

1 c. The facts that lead to the conviction were that Respondent
2 knowingly made and presented Medicare claims to the United States Department of Health and
3 Human Services (requests for payment for lymphedema pumps), knowing that the claims were
4 false, fictitious and fraudulent in that the Medical Necessity Forms, the Physician's Prescription
5 Forms, and Patient Agreement Information Forms for each claim had either been forged by
6 Respondent or obtained by deceit.

7
8 **THIRD CAUSE FOR DENIAL OF APPLICATION**

9 **(Criminal Conviction on November 29, 2000, for Possession of**
10 **Controlled Substances & Larceny/Petty Theft on June 19, 2000)**

11 13. Respondent's application is subject to denial under sections 480(a)(1),
12 480(a)(3), and 4301(l) of the Code in that Respondent was convicted of an offense that is
13 substantially related to the qualifications, duties, and functions of a pharmacist. The
14 circumstances are as follows:

15 a. On or about November 20, 2000, in a criminal proceeding entitled
16 *People v. Stephen Mason Otis*, Okaloosa County Circuit Court (Florida), case number
17 2000CF001053, Respondent was convicted of possessing a Schedule I controlled substance,
18 possessing a controlled substance without a prescription, and larceny/petty theft.

19 b. As a result of the state conviction, the terms of Respondent's
20 federal supervised release program were violated (as set forth in paragraph 12(b)). Respondent's
21 sentence was deferred and he was referred to drug court concurrent with his November 29, 2000,
22 re-sentence to seven months in federal prison.

23 c. The facts that lead to the conviction were that on or about June 19,
24 2000, while employed by the Fort Walton Beach (Florida) Medical Center pharmacy, Respondent
25 was contacted by the Okaloosa County Sheriff's Office as a result of a complaint filed by the
26 head pharmacist who suspected that Respondent was stealing drugs from the pharmacy's drug
27 vault. Sheriff's deputies discovered in Respondent's lab coat tablets containing Hydrocodone
28 bitartate and acetaminophen, a Schedule III drug subject to the Federal Controlled Substances

1 Act. A consent search of Respondent's automobile was performed and deputies found additional
2 Hydrocodone tablets, as well as one vial of morphine and a syringe. An inventory of the vault
3 revealed missing vials of Hydromorphone, morphine, Demerol, and Fentanyl, all controlled
4 substances. An inventory entry for morphine on the Pharmacy Narcotic Record form showed
5 evidence of tampering (use of white-out). Respondent admitted to the head pharmacist that he
6 was on a substance abuse program, that he still had a drug problem, and that he had been taking
7 drugs from the vault for his own use. Respondent's arms showed evidence of recent intravenous
8 drug use.

9
10 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

11 **(August 8, 2001, Criminal Conviction for Stalking)**

12 14. Respondent's application is subject to denial under sections 480(a)(1),
13 480(a)(3), and 4301(l) of the Code in that Respondent was convicted of an offense that is
14 substantially related to the qualifications, duties, and functions of a pharmacist. The
15 circumstances are as follows:

16 a. On or about August 8, 2001, in a criminal proceeding entitled
17 *People v. Stephen Mason Otis*, Santa Rosa County Circuit Court, case number 01000029CFMA,
18 Respondent was convicted of misdemeanor stalking and felony aggravated stalking.

19 b. As a result of the conviction, Respondent was sentenced to one
20 year probation, and payment of fines and court costs.

21 c. The facts that lead to the conviction were that Respondent
22 continuously made telephone calls to a former girlfriend at her residence and her place of
23 employment over a period of several weeks in December 2000, in violation of a domestic
24 violence injunction. The victim reported the incidents to the Santa Rosa County Sheriff's Office
25 and described the telephone calls as harassment that placed her in reasonable fear of harm.
26 Respondent was taken into custody by sheriff's deputies on January 17, 2001.

27 ///

28 ///

1 FIFTH CAUSE FOR DENIAL OF APPLICATION

2 (Discipline Imposed by Another State Against Pharmacy License
3 as A Result of Federal Conviction)

4 15. Respondent's application is subject to denial under sections 480(a)(3) and
5 4301(n) of the Code in that Respondent's pharmacist's license issued in Florida was suspended.
6 The circumstances are as follows:

7 a. On or about November 13, 2001, in an administrative proceeding
8 entitled *Department of Health v. Stephen Otis, R.Ph.*, before the State of Florida Board of
9 Pharmacy, case number 98-01994, Respondent entered into a stipulation and a final order taking
10 administrative action against Respondent's pharmacy license.

11 b. As a result of the final order, Respondent's pharmacy license was
12 "suspended indefinitely and until such time he appears before the Board to request reinstatement
13 and demonstrates the then present ability to practice with reasonable skill and safety, which shall
14 include an evaluation through the Physician's Recovery Network . . ."

15 c. The facts that lead to the discipline were that on or about January
16 9, 1998, Respondent was convicted on his plea of guilty to violating 18 U.S.C. § 287 (making
17 false, fictitious, or fraudulent claims against the U.S.), a felony, as set forth in paragraph 12.

18
19 SIXTH CAUSE FOR DENIAL OF APPLICATION

20 (Discipline Imposed by Another Against Pharmacy License
21 For Violating Terms of Order)

22 16. Respondent's application is subject to denial under sections 480(a)(3) and
23 4301(n) of the Code in that Respondent's pharmacist's license issued in Florida was suspended.
24 The circumstances are as follows:

25 a. On or about November 13, 2001, in an administrative proceeding
26 entitled *Department of Health v. Stephen Otis, R.Ph.*, before the State of Florida Board of
27 Pharmacy, case number 99-62600, Respondent entered into a stipulation and final order taking
28 administrative action against Respondent's pharmacy license.

1 b. As a result of the final order, Respondent's pharmacy license was
2 "suspended indefinitely and until such time he appears before the Board to request reinstatement
3 and demonstrates the then present ability to practice with reasonable skill and safety, which shall
4 include an evaluation through the Physician's Recovery Network . . ."

5 c. The facts that lead to the discipline were that on or about
6 November 24, 1999, and February 3, 2000, the Department of Health performed inspections and
7 discovered Respondent practicing pharmacy at a Pensacola, Florida, CVS Pharmacy, without
8 first appearing before the Board of Pharmacy as required by the Final Order set forth in
9 paragraph 11, above.

10
11 **SEVENTH CAUSE FOR DENIAL OF APPLICATION**

12 **(Discipline Imposed by Another State Against Pharmacy License**
13 **for Refusing to Submit to Toxicology Screens)**

14 17. Respondent's application is subject to denial under sections 480(a)(3) and
15 4301(n) of the Code in that Respondent's pharmacist's license issued in Florida was suspended.
16 The circumstances are as follows:

17 a. On or about November 13, 2001, in an administrative proceeding
18 entitled *Department of Health v. Stephen Otis, R.Ph.*, State of Florida Board of Pharmacy case
19 number 00-07689, Respondent entered into a stipulation and final order taking administrative
20 action against Respondent's pharmacy license.

21 b. As a result of the final order, Respondent was determined to be
22 unfit or incompetent to practice pharmacy by reason of habitual intoxication, and the misuse or
23 abuse of scheduled drugs. Respondent's pharmacy license was "suspended indefinitely and until
24 such time he appears before the Board to request reinstatement and demonstrates the then present
25 ability to practice with reasonable skill and safety, which shall include an evaluation through the
26 Physician's Recovery Network . . ."

27 c. The facts that lead to the discipline were that on two occasions in
28 February 2000, Respondent refused to submit urine samples for toxicology screens as required by

1 his PRN contract. (See paragraph 11, above.) Two urine toxicology screens submitted in March
2 2000 tested positive for hydrocodone and hydromorphone. In April 2000, Respondent admitted
3 to his counselor that he continuously used alcohol in violation of his PRN contract. Respondent
4 was subsequently terminated from the PRN program.

5
6 **EIGHTH CAUSE FOR DENIAL OF APPLICATION**

7 **(Discipline Imposed by Another State Against Pharmacy License -**
8 **Emergency Suspension Order)**

9 18. Respondent's application is subject to denial under sections 480(a)(3) and
10 4301(n) of the Code in that Respondent's pharmacist's license issued in Florida was suspended.
11 The circumstances are as follows:

12 a. On or about July 3, 2000, as a result of a state (Florida) conviction
13 set forth in paragraph 13, Respondent was the subject of an administrative proceeding entitled
14 *Department of Health v. Stephen Otis, R.P.H.*, State of Florida Board of Pharmacy, case number
15 2000-09721.

16 b. As a result of the administrative proceeding, Respondent entered
17 into a stipulation and order suspending Respondent's pharmacy license indefinitely with imposed
18 terms and conditions.

19 c. The facts that lead to the license suspension were that on or about
20 June 19, 2000, Respondent was arrested by Okaloosa County Sheriff's Deputies for possession of
21 controlled substances determined to be stolen from his place of employment. (See paragraph 13,
22 above.)

23
24 **NINTH CAUSE FOR DENIAL OF APPLICATION**

25 **(Discipline Imposed by Another State Suspending**
26 **Alabama Pharmacy License on February 3, 2003)**

27 19. Respondent's application is subject to denial under sections 480(a)(3) and
28 4301(n) of the Code in that Respondent's pharmacist's license issued in Alabama was suspended.

1 The circumstances are as follows:

2 a. On or about February 3, 2003, Respondent was the subject of an
3 administrative proceeding entitled *In the Matter of: Stephen Mason Otis, License Number 11915*,
4 Alabama State Board of Pharmacy.

5 b. As a result of the administrative proceeding, Respondent's license
6 to practice pharmacy in the State of Alabama was suspended indefinitely based upon
7 Respondent's federal conviction (see paragraph 12, above), and the Florida Board of Pharmacy's
8 multiple disciplinary proceedings (see paragraphs 15-18).

9 c. The facts that lead to the license suspension were that in a
10 Statement of Charges and Notice of Hearing dated December 3, 2002, Respondent was notified
11 at his address of record and requested to appear at an administrative hearing before the Alabama
12 State Board of Pharmacy. The certified mail was unclaimed and Respondent failed to appear at
13 the hearing.

14
15 **TENTH CAUSE FOR DENIAL OF APPLICATION**

16 **(Discipline Imposed by Another State for Failure to Pay Fine and Costs)**

17 20. Respondent's application is subject to denial under sections 480(a)(3) and
18 4301(n) of the Code in that Respondent's pharmacist's license issued in Florida was suspended.
19 The circumstances are as follows:

20 a. On or about October 15, 2004, Respondent was the subject of an
21 administrative complaint charging Respondent for failure to pay a \$2,500.00 fine and costs in the
22 amount of \$1,018.24, as ordered in paragraph 18, above.

23 b. As a result of the administrative proceeding, on or about
24 September 25, 2006, the Florida Board of Pharmacy entered a Final Order requiring Respondent
25 to pay investigative costs of \$218.20 and an administrative fine of \$250.00.

26 c. On or about February 7, 2007, Respondent and his attorney
27 petitioned the board for a termination of his suspension. A doctor from PRN was also present at
28 the hearing. The board granted the petition.

1 ELEVENTH CAUSE FOR DENIAL OF APPLICATION

2 (Unprofessional Conduct - Commission of Acts Involving Dishonesty, Fraud, and Deceit)

3 21. Respondent's application is subject to denial under sections 480(a)(3) and
4 4301(f) of the Code in that he committed acts involving dishonesty, fraud, and deceit as set forth
5 in paragraphs 11, 12, 13, 16, and 17, above.
6

7 TWELFTH CAUSE FOR DENIAL OF APPLICATION

8 (Unprofessional Conduct - Knowingly Falsified Documents)

9 22. Respondent's application is subject to denial under sections 480(a)(3) and
10 4301(g) of the Code in that he knowingly made or signed documents that falsely represented the
11 existence or nonexistence of a state of facts as set forth in paragraphs 11, 12, and 13, above.
12

13 THIRTEENTH CAUSE FOR DENIAL OF APPLICATION

14 (Unprofessional Conduct - Use of Dangerous Drugs)

15 23. Respondent's application is subject to denial under sections 480(a)(3) and
16 4301(h) of the Code in that, by his own admission and by the results of toxicology screening
17 tests, he self-administered controlled substances to the extent or in a manner as to be dangerous
18 or injurious to himself, and the impairment affected his ability to conduct with safety to the
19 public the practice authorized by the license as set forth in paragraphs 13 and 17, above.
20

21 FOURTEENTH CAUSE FOR DENIAL OF APPLICATION

22 (Unprofessional Conduct - Violation of Statute Regulating Dangerous Drugs)

23 24. Respondent's application is subject to denial under sections 480(a)(3) and
24 4301(j) of the Code in that he was convicted on November 29, 2000, for possession of
25 Hydrocodone bitartate and acetaminophen, a Schedule III drug subject to the Federal Controlled
26 Substances Act, and morphine, Schedule II drug subject to the Federal Controlled Substances
27 Act. (Both Hydrocodone and morphine are classified as Schedule II drugs in accordance with
28

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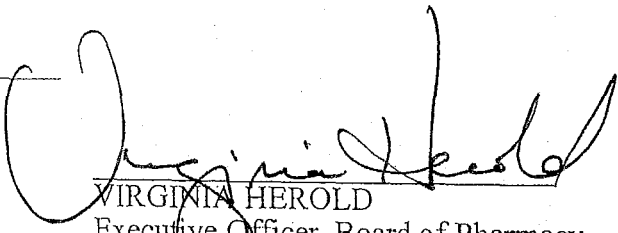
1 California Health and Safety Code section 11055(b)(1).) The drugs are so classified due to their
2 high potential for abuse and psychological or physical dependence.

3
4 PRAYER

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

- 7 1. Denying the application of Stephen Mason Otis for a license to practice
8 pharmacy and registration as an intern pharmacist;
9 2. Taking such other and further action as deemed necessary and proper.

10
11 DATED: 7/19/07

12
13 
14 VIRGINIA HEROLD
15 Executive Officer, Board of Pharmacy
16 Department of Consumer Affairs
17 State of California
18 Complainant

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