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

10 In the Matter of the Accusation Against:

Case No. 3751

11 **BRIAN THOMAS ROZEMA**
12 **17615 Winding Creek Road**
13 **Salinas, CA 93908**

A C C U S A T I O N

14 **Pharmacist License No. RPH 43402**

15 Respondent.

16 Complainant alleges:

17
18 PARTIES

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 21 2. On or about July 23, 1990, the Board of Pharmacy issued Pharmacist License No.
22 RPH 43402 to Brian Thomas Rozema (Respondent). The License was in full force and effect at
23 all times relevant to the charges brought herein and will expire on May 31, 2012, unless renewed.

24 JURISDICTION

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

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

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

7 8. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous
8 drug or dangerous device except upon the prescription of an authorized prescriber.

9 9. Section 4060 of the Code provides, in pertinent part, that no person shall possess any
10 controlled substance, except that furnished upon a valid prescription/drug order.

11 10. Section 4324 of the Code, in pertinent part, makes it unlawful for a person to falsely
12 make, alter, forge, utter, publish, pass, or attempt to pass, as genuine, a prescription for a drug, or
13 to have in his or her possession a drug secured by a forged prescription.

14 11. Health and Safety Code section 11150 provides, in pertinent part, that no person other
15 than an authorized prescriber shall write or issue a prescription.

16 12. Health and Safety Code section 11157 provides that no person shall issue a
17 prescription that is false or fictitious in any respect.

18 13. Health and Safety Code section 11170 provides that no person shall prescribe,
19 administer, or furnish a controlled substance for himself or herself.

20 14. Health and Safety Code section 11173, subdivision (a), provides that no person shall
21 obtain or attempt to obtain controlled substances, or procure or attempt to procure the
22 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,
23 or subterfuge; or (2) by the concealment of a material fact.

24 15. Health and Safety Code section 11175 makes it unlawful for any person to obtain or
25 possess a prescription that does not comply with the Uniform Controlled Substances Act [Health
26 & Safety Code, § 11000 et seq.], to obtain a controlled substance by means of such non-compliant
27 prescription, or to possess a controlled substance obtained by such a prescription.

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1 16. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess
2 any controlled substance listed in Schedule II (Health and Safety Code section 11055),
3 subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

4 17. Health and Safety Code section 11368, in pertinent part, makes it unlawful to forge or
5 alter a prescription, issue or utter an altered prescription, issue or utter a prescription with forged
6 or fictitious signature for a narcotic drug, obtain a narcotic drug by a forged, fictitious, or altered
7 prescription, or possess a narcotic drug secured by a forged, fictitious, or altered prescription.

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

11 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

12 19. Section 4021 of the Code states:

13 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section
14 11053) of Division 10 of the Health and Safety Code.”

15 20. Section 4022 of the Code states, in pertinent part:

16 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,
17 except veterinary drugs that are labeled as such, and includes the following:

18 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
19 prescription,’ ‘Rx only,’ or words of similar import.

20 ...

21 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
22 prescription or furnished pursuant to Section 4006.”

23 21. **Norco, Vicodin, Vicodin ES, Lortab, and Lorcet** are among the brand names for
24 compounds of varying dosages of acetaminophen (aka APAP) and **hydrocodone**, a Schedule III
25 controlled substance as designated by Health and Safety Code section 11056(e)(4) and dangerous
26 drug as designated by Business and Professions Code section 4022. The varying compounds are
27 also known generically as **Hydrocodone with APAP**. These are all narcotic drugs.

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1 FACTUAL BACKGROUND

2 22. From an unknown start date in or prior to 2006 until on or about January 7, 2010,
3 Respondent worked as a pharmacist for a Walgreens Pharmacy (PHY 45761) in Monterey, CA.
4 For at least part of that time period, and until on or about January 7, 2010, Respondent served as
5 the Pharmacist in Charge (PIC) at his workplace pharmacy. As such, Respondent had access to
6 patient profile information, and the stock of controlled substances and dangerous drugs.

7 23. During his employment, Respondent took advantage of his access to patient profile
8 information and controlled substance/dangerous drug stocks to steal/divert controlled substances
9 and dangerous drugs, including **Norco** and/or other **Hydrocodone with APAP** controlled drug
10 products, for his own use. The exact number of instances of diversion/theft by Respondent, and
11 the full quantity of controlled substances or dangerous drugs diverted/stolen by Respondent, are
12 not known, but in the course of investigations conducted by the pharmacy and by police, the
13 following were among the observations, admissions, and revelations reported:

14 a. Acting on an inquiry from the Naval Corporal Investigation Service (NCIS),
15 Walgreens investigators identified several (9) suspicious prescriptions for **Norco/Hydrocodone**
16 filled by Respondent in the name of a patient (C.B.¹) who was a U.S. Navy employee or officer.

17 b. On or about January 7, 2010, Respondent admitted to Walgreens investigators
18 that he had been falsely writing/creating/entering prescriptions for **Norco/Hydrocodone** using the
19 names of relatives of pharmacy customers that he was able to identify from pharmacy/insurance
20 records. He admitted that he had been doing so for years, since sometime in 2006, that he did so
21 to procure the drugs for his own use, that he was addicted to **Norco/Hydrocodone**, and that since
22 sometime in 2006 he had by this method acquired approximately 5,000 to 6,000 tablets.

23 c. On or about January 7, 2010, Respondent confirmed these admissions during an
24 interview with police, and further admitted that he had used at least 20-30 different names on the
25 fraudulent prescriptions for **Norco/Hydrocodone**, that some of the names were fictitious while
26 others were real, and that at least some of the prescriptions had been billed to insurance.

27
28 ¹ The full name will be provided to Respondent during discovery.

1 d. On or about January 18, 2010, Respondent sent a letter to the Board in which he
2 admitted to being an addict and acknowledged his inability to safely practice as a pharmacist.
3 Respondent described his history of addiction, and his recent entry into treatment and recovery.

4 24. On or about January 7, 2010, Respondent was arrested by Monterey Police. On or
5 about April 1, 2010, Respondent was charged by criminal Complaint, in *People v. Brian Rozema*,
6 Case No. SS101035A in Monterey County Superior Court, with one count of violating Penal
7 Code section 508 (Embezzlement by Employee – Over \$400.00), a felony, and ten counts of
8 violating Health and Safety Code section 11368 (Forging and Issuing a Prescription), all felonies.
9 On or about August 30, 2010, Respondent entered pleas to the first two counts and was granted a
10 deferred entry of judgment (DEJ) pursuant to Penal Code section 1000 et seq., requiring that he,
11 *inter alia*, enroll in and successfully complete the Pharmacists Recovery Program (PRP), abstain
12 from possession or use, submit to drug testing, and submit to search conditions.

13
14 FIRST CAUSE FOR DISCIPLINE

15 (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

16 25. Respondent is subject to discipline under section 4301(f) of the Code in that
17 Respondent, as described in paragraphs 22 to 24 above, committed numerous acts involving
18 moral turpitude, dishonesty, fraud, deceit, or corruption.

19 SECOND CAUSE FOR DISCIPLINE

20 (Creation/Signature of False Documents)

21 26. Respondent is subject to discipline under section 4301(g) of the Code in that
22 Respondent, as described in paragraphs 22 to 24 above, created and/or signed documents that
23 falsely represented the existence or nonexistence of a state of facts.

24 THIRD CAUSE FOR DISCIPLINE

25 (Self-Administration of Controlled Substance and/or Alcohol)

26 27. Respondent is subject to discipline under section 4301(h) of the Code, and/or 4301(j)
27 and/or (o) of the Code and Health and Safety Code section 11170, in that Respondent, as
28 described in paragraphs 22 to 24 above, administered a controlled substance to himself.

1 FOURTH CAUSE FOR DISCIPLINE

2 (Furnishing of Controlled Substance)

3 28. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section
4 4059 of the Code, and/or Health and Safety Code section 11170 in that Respondent, as described
5 in paragraphs 22 to 24 above, furnished to himself or another without a valid prescription, and/or
6 conspired to furnish, and/or assisted or abetted furnishing of, a controlled substance.

7 FIFTH CAUSE FOR DISCIPLINE

8 (Possession of Controlled Substance)

9 29. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section
10 4060 of the Code, and/or Health and Safety Code section 11350, in that Respondent, as described
11 in paragraphs 22 to 24 above, possessed, conspired to possess, and/or assisted in or abetted
12 possession of, a controlled substance, without a prescription.

13 SIXTH CAUSE FOR DISCIPLINE

14 (Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)

15 30. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,
16 and/or Health and Safety Code section 11173(a), in that Respondent, as described in paragraphs
17 22 to 24 above, obtained, conspired to obtain, and/or assisted in or abetted the obtaining of a
18 controlled substance, by fraud, deceit, subterfuge, or concealment of material fact.

19 SEVENTH CAUSE FOR DISCIPLINE

20 (Making, Uttering and/or Using False or Forged Prescriptions)

21 31. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section
22 4324 of the Code, and/or Health and Safety Code section(s) 11157 and/or 11368, in that
23 Respondent, as described in paragraphs 22 to 24 above, falsely made, altered, forged, uttered,
24 published, passed, or attempted to pass, a false, forged, fictitious or altered prescription for a
25 (narcotic) drug, had in his possession a (narcotic) drug secured by a false, forged, fictitious or
26 altered prescription, or conspired and/or assisted in or abetted any of these acts.

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1 EIGHTH CAUSE FOR DISCIPLINE

2 (Issuance and/or Use of Invalid Prescription(s))

3 32. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,
4 and/or Health and Safety Code section(s) 11150 and/or 11175, in that Respondent, as described in
5 paragraphs 22 to 24 above, issued prescriptions without authority to do so, obtained or possessed
6 an invalid prescription, obtained or possessed a controlled substance by means of such invalid
7 prescription, or conspired and/or assisted in or abetted any of these acts.

8 NINTH CAUSE FOR DISCIPLINE

9 (Unprofessional Conduct)

10 33. Respondent is subject to discipline under section 4301 of the Code in that
11 Respondent, as described in paragraphs 25 to 32 above, engaged in unprofessional conduct.

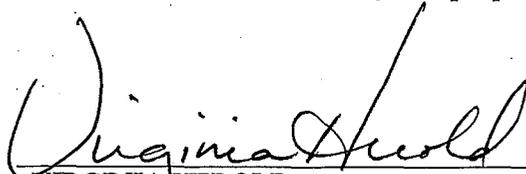
12 PRAYER

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

- 15 1. Revoking or suspending Pharmacist License Number RPH 43402, issued to Brian
- 16 Thomas Rozema (Respondent);
- 17 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
- 18 enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 19 3. Taking such other and further action as is deemed necessary and proper.
- 20

21 DATED: _____

22 4/5/11

23 

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

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