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6 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

12 **WALKER'S DRUG STORE,**
13 **Isaac J. Walker, Jr. President and**
14 **Pharmacist in Charge**
15 3023 N. Lincoln Avenue
16 Altadena, CA 91002
17 Pharmacy Permit License No. PHY34980
18 and
19 **ISAAC J. WALKER, JR.**
20 649 West Figueroa Drive
21 Altadena, CA. 91001
22 Original Pharmacist License
23 Number RPH 23819

24 Respondents.

Case No. 2329

OAH No. L-20001040225

STIPULATED SURRENDER OF
PHARMACIST LICENSE; AND
STIPULATION AND ORDER
REVOKING PHARMACY PERMIT

(Hearing Dates February 19-22, 2002)

25 In the interest of a prompt and speedy resolution of this matter, consistent with the
26 public interest and the responsibility of the Board of Pharmacy of the Department of Consumer
27 Affairs the parties hereby agree to the following Stipulated Surrender of License and Stipulation
28 and Order Revoking Pharmacy Permit which will be submitted to the Board for approval and
adoption as the final disposition of the Accusation which is currently pending before the Board of
Pharmacy (hereinafter "Board) against Licensed Pharmacist Isaac J. Walker, Jr.(hereinafter
Respondent "Dr.Walker") and the pharmacy permit of Walker's Drug Store, Isaac J. Walker, Jr.,

1 President and Pharmacist in Charge.. The License was in full force and effect at all times relevant
2 to the charges brought in Accusation No. 2329 and will expire on or about February 1, 2002,
3 unless renewed. Dr. Walker enters into the instant stipulation both individually and as President
4 and Pharmacist in Charge of Respondent Store.

5 JURISDICTION

6 4. Accusation No. 2329 was filed before the Board of Pharmacy, (Board),
7 Department of Consumer Affairs, and is currently pending against Respondents Dr. Walker and
8 Store.. The Accusation, together with all other statutorily required documents were properly
9 served on Respondents on February 2, 2001. Respondents by and through Dr. Walker timely filed
10 their Notice of Defense contesting the Accusation. A copy of Accusation No. 2329 is attached as
11 exhibit A and incorporated herein by reference.

12 ADVISEMENT AND WAIVERS

13 5. Respondent Dr. Walker, both in his individual capacity and as President
14 and Pharmacist in Charge of Respondent Store has carefully read, fully discussed with counsel,
15 and understands the charges and allegations in Accusation No. 2329. Respondent also has
16 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
17 Surrender of License and Order both as it applies to his individual license as a pharmacist and as
18 the order applies to the Store.

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

26 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
27 each and every right set forth above as to both his individual license as a pharmacist and the
28 license of Respondent Store..

1 CULPABILITY

2 8. Respondent understands that the charges and allegations in Accusation No.
3 2329, if proven at a hearing, constitute cause for imposing discipline upon the Pharmacy Permit of
4 Respondent Store and upon his individual License as a pharmacist..

5 9. For the purpose of resolving the Accusation without the expense and
6 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could
7 establish a ^{an prime face case} ~~factual basis~~ for the charges in the Accusation and that those charges ^{if proven} constitute cause
8 for discipline. Respondent hereby gives up their right to contest that cause for discipline exists
9 based on those charges.

10 10. Respondent understands that by signing this stipulation Entity enables the
11 Board to issue its order accepting the surrender of his individual Pharmacists license and the
12 revocation of the Pharmacy Permit License of the Store without further process.

13 RESERVATION

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

17 CONTINGENCY

18 12. This stipulation shall be subject to approval by the Board of Pharmacy. It is
19 understood that, in deciding whether to adopt this stipulation and order, the Board may receive
20 oral and written presentation from and make inquiries of complainant, her attorneys, the Board's
21 attorneys, consulting experts and the Board's enforcement committee. Respondent understands
22 and agrees that counsel for Complainant and staff of the Board of Pharmacy may communicate
23 directly with the Board regarding this stipulation and settlement, without notice to or participation
24 by Respondent or its counsel. By signing the stipulation, Respondent understands and agrees that
25 they may not withdraw its agreement or seek to rescind the stipulation prior to the time the Board
26 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
27 the Stipulated Surrender of License and Order shall be of no force or effect, except for this
28 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not

1 be disqualified from further action by having considered this matter.

2 13. The parties understand and agree that facsimile copies of this Stipulated
3 Surrender of License and Order, including facsimile signatures thereto, shall have the same force
4 and effect as the originals.

5 14. In consideration of the foregoing admissions and stipulations, the parties
6 agree that the Board may, without further notice or formal proceeding, issue and enter the
7 following Orders

8 :

9 **ORDER ACCEPTING SURRENDER OF PHARMACISTS LICENSE**

10 IT IS HEREBY ORDERED that Pharmacy License No. RPH 23819 previously
11 issued to Respondent Isaac J. Walker, Jr., is surrendered and accepted by the Board of Pharmacy.
12 Respondent surrenders license number RPH 23819 as of the effective date of this decision.
13 Respondent shall relinquish his wall license and pocket renewal license to the Board or its
14 designee within the (10) days of the effective date of this decision. Respondent may not reapply
15 for any license, permit, or registration of the Board for three (3) years from the effective date of
16 this decision. Respondent stipulates that should he apply for any license from the Board on or
17 after the effective date of this decision, all allegations set out in the accusation shall be deemed to
18 be true. Respondent shall meet all requirements then currently applicable to that license as of the
19 date the application is submitted to the Board, including but not limited to taking and passing the
20 California pharmacist licensure examination prior to the issuance of a new license. Respondent
21 further stipulates that should he apply for any license from the Board on or after the effective date
22 of this decision, that investigation and prosecution costs in the amount of \$21,257 shall be paid to
23 the Board prior to issuance of any license, certification or registration.

24 15. Respondent shall lose all rights and privileges as a pharmacist in California
25 as of the effective date of the Board's Decision and Order.

26 16. Respondent shall cause to be delivered to the Board both its License and
27 wallet certificate on or before the effective date of the Decision and Order.

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ORDER REVOKING PHARMACY PERMIT

1
2 IT IS HEREBY FURTHER ORDERED that Pharmacy Permit No. PHY 34980
3 previously issued to Respondent Walker's Drug Store, Isaac J. Walker, Jr. President and
4 Pharmacist in Charge is revoked; provided however that said order of revocation shall become
5 effective not later than ninety (90) days after the effective date of this order. Said store may
6 remain open and operate during this period but only under the management and control of an
7 independent Pharmacist in Charge whose qualifications and experience are acceptable to the
8 Board. Said new Pharmacist in Charge must be in place prior to the acceptance of the surrender
9 of the Pharmacist License issued to the current Pharmacist in Charge, Isaac J. Walker, Jr..
10 Respondent Walker shall make every effort to complete sale of the premises within the 90 day
11 period called for by this order. Respondent Walker shall promptly report to the Board or its
12 designee the progress of the sale and the date of closure of escrow, which shall be come the
13 effective date of the order of revocation if it occurs prior to 90 days from the effective date of the
14 order. In the event the transfer of the property is not complete, the Executive Officer, in ^{the Executive's} ~~her~~ sole
15 discretion, may stay the effective date for an additional period of not more than thirty (30) days to
16 complete the transaction at which time the final order of revocation shall go into effect.

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17 Respondent shall, by the effective date of the order of revocation, arrange for the
18 destruction of, the transfer to, the sale of or the storage in a facility licensed by the Board of all
19 controlled substances/dangerous drugs. Respondent by and through the current Pharmacist in
20 Charge shall provide written proof of such disposition to the Board or its designee within five (5)
21 days of disposition.

22 17. Respondent fully understands and agrees that if they ever file an application
23 for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a
24 petition for reinstatement. Respondent must comply with all the laws, regulations and procedures
25 for reinstatement of a revoked license in effect at the time the petition is filed, and all of the
26 charges and allegations contained in Accusation, No. 2329 will be deemed to be true, correct and
27 admitted by Respondent when the Board determines whether to grant or deny the petition.
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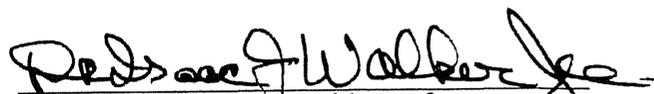
1 18. Respondent shall pay the Board its costs of investigation and enforcement
2 in the amount of \$21,257.00 prior to issuance of a new or reinstated license.

3 ACCEPTANCE

4 I have carefully read the above Stipulated Surrender of License and Order and have
5 fully discussed it with my attorney, Richard A. Moss. I understand the stipulation and the effect it
6 will have on the Pharmacy Permit of Walker's Drug Store and my individual Pharmacists
7 License. I enter into this Stipulated Surrender of License and Order revoking the Pharmacy
8 Permit of the Store and I voluntarily, knowingly, and intelligently enter into this agreement as to
9 all licenses, and agree to be bound by the Decision and Order of the Board of Pharmacy.

10
11 DATED: 1/24/02

12 Dr. ISAAC J. WALKER, JR.

13
14 
15 Individually and as President of
16 WALKER'S DRUG STORE
17 Respondents

18 I have read and fully discussed with Dr. Isaac J. Walker, Jr. who is licensed
19 individually as a pharmacist and as President and Pharmacist in Charge of Walker's Drug Store
20 the terms and conditions and other matters contained in this Stipulated Surrender of License and
21 Order. I approve its form and content.

22 DATED: 1/24/02

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25 RICHARD A. MOSS
26 Attorney for Respondents
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ENDORSEMENT

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

DATED: January 24, 2002.

BILL LOCKYER, Attorney General
of the State of California



EARL R. PLOWMAN
Deputy Attorney General

Attorneys for Complainant

DOJ Docket Number: 03583110-LA2000AD1518
Stipulation for surrender 10/12/01

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

In the Matter of the Accusation Against:

**WALKER'S DRUG STORE,
Isaac J. Walker, Jr. President and
Pharmacist in Charge**
3023 N. Lincoln Avenue
Altadena, CA 91002

Pharmacy Permit License No. PHY34980

and

ISAAC J. WALKER, JR.
649 West Figueroa Drive
Altadena, CA. 91001

Original Pharmacist License
Number RPH 23819

Respondents.

Case No. 2329

OAH No. L-20001040225

DECISION AND ORDER

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

This Decision shall become effective on May 23, 2002.

It is so ORDERED April 23, 2002.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By:


STEVE LITSEY
Board President

1 BILL LOCKYER, Attorney General
of the State of California
2 EARL R. PLOWMAN, State Bar No. 54339
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3 California Department of Justice
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6 Attorneys for Complainant

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8

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

9

10

11 In the Matter of the Accusation Against:

Case No. 2329

12 WALKER'S DRUG STORE
3023 North Lincoln Avenue
13 Altadena, CA 91001
ISAAC J. WALKER, JR., President
14 Original Pharmacy Permit
Number PHY 34980

ACCUSATION

15

and

16

17 ISAAC J. WALKER JR.
649 West Figueroa Drive
Altadena, CA 91001

18

19 Original Pharmacist License
Number RPH 23819

20

Respondents.

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22

Complainant alleges:

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PARTIES

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25 1. Patricia F. Harris ("Complainant") brings this Accusation solely in her
official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
26 Affairs.

27

28 2. On or about February 15, 1989, the Board of Pharmacy issued Original
Pharmacy Permit Number PHY 34980 to Walker's Drug Store ("Respondent Store"). The

1 Original Pharmacist Permit was in full force and effect at all times relevant to the charges
2 brought herein and will expire on February 1, 2001, unless renewed. The corporate officer since
3 February 15, 1989 is Isaac J. Walker, Jr., President. Further, that Isaac J. Walker, Jr., RPH
4 23819 has been the Pharmacist-in-Charge since February 15, 1989.

5 3. On or about November 7, 1964, the Board of Pharmacy issued Original
6 Pharmacist License Number RPH 23819 to Isaac J. Walker Jr. ("Respondent Walker"). The
7 Original Pharmacist License was in full force and effect at all times relevant to the charges
8 brought herein and will expire on May 31, 2002, unless renewed.

9 10 JURISDICTION

11 4. This Accusation is brought before the Board of Pharmacy ("Board"),
12 under the authority of the following sections of the Business and Professions Code ("Code").

13 5. Section 4300 of the Code permits the Board to take disciplinary action to
14 suspend or revoke a license issued by the Board

15 6. Section 4301 of the Code states:

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

20 (j) The violation of any of the statutes of this state or of the United States
21 regulating controlled substances and dangerous drugs.

22 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
23 abetting the violation of or conspiring to violate any provision or term of Chapter 9
24 (commencing with Section 4000) of the Business and Professions Code or of the
25 applicable federal and state laws and regulations governing pharmacy, including
26 regulations established by the board.

27 (p) Actions or conduct that would have warranted denial of a license.

28 7. Section 125.3 of the Code states, in pertinent part, that the Board may

1 request the administrative law judge to direct a licentiate found to have committed a violation or
2 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
3 and enforcement of the case.

4 8. Section 4022 of the Code defines "Dangerous drug" as any drug that is
5 unsafe for self-medication and which by federal or state law can only be lawfully dispensed only
6 on prescription or furnished pursuant to Section 4006.

7 9. Section 4081 of the Code, provides in pertinent part, all records of
8 manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices
9 shall be at all times during business hours open to inspection by authorized officers of the law,
10 and shall be preserved for at least three years from the date of making. A current inventory shall
11 be kept by every pharmacy holding a currently valid and unrevoked certificate, license, permit,
12 registration.

13 10. Title 16, California Code of Regulations, section 1718 states:

14 "Current Inventory" as used in Section 4232 of the Business and Professions
15 Code shall be considered to include complete accountability for all dangerous drugs
16 handled by every licensee enumerated in Section 4232.

17 The controlled substances inventories required by Title 21, CFR, Section 1304
18 shall be available for inspection upon request for at least 3 years after the date of the
19 inventory.

20 11. Title 16, California Code of Regulations, section 1717, subdivision (c)
21 states that promptly upon receipt of an orally transmitted prescription, the pharmacist shall
22 reduce it to writing, and initial it, and identify it as an orally transmitted prescription. If the
23 prescription is then dispensed by another pharmacist, the dispensing pharmacist shall also initial
24 the prescription to identify him or herself. All orally transmitted prescriptions shall be received
25 and transcribed by a pharmacist prior to compounding, filling, dispensing, or furnishing.

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

1 and enforcement of the case.

2 13. DANGEROUS DRUGS

3 "Viagra", a brand name for the generic drug Sildenafil Citrate is categorized as a
4 dangerous drug pursuant to section 4022 of the Code.

5 "Vicodin" is a brand name combination of hydrocodone 5 mg with
6 acetaminophen 500 mg. It is a Schedule III narcotic controlled substance as defined by Health
7 and Safety Code section 11056(e)(5) and is categorized as a dangerous drug pursuant to section
8 4022 of the Code.

9 "Vicodin ES" is a brand name combination of hydrocodone 7.5 mg with
10 acetaminophen 750 mg. It is a Schedule III narcotic controlled substance as defined by Health
11 and Safety Code section 11056(e)(5) and is categorized as a dangerous drug pursuant to section
12 4022 of the Code.

13 "Lortabs", is a brand name combination of hydrocodone with acetaminophen. It
14 is a Schedule III narcotic controlled substance as defined by Health and Safety Code section
15 11056(e)(5) and is categorized as a dangerous drug pursuant to section to section 4022 of the
16 Code.

17 "Dexedrine", manufactured as an elixir and has a generic name of
18 Dextroamphetamine. It is a Schedule II controlled substance as defined by Health and Safety
19 Code section 11055 and is categorized as a dangerous drug pursuant to section 4022 of the Code.

20 "Phenergan", has a generic name of Promethazine, and is categorized as a
21 dangerous drug pursuant to section 4022 of the Code.

22 "Ritalin" is a psychotherapeutic agent and has a generic name of
23 Methylphenidate. It is a Schedule II controlled substance as defined by Health and Safety Code
24 section 11055 and is categorized as a dangerous drug pursuant to section 4022 of the Code.

25 "Codeine" is a Schedule II controlled substance as designated by Health and
26 Safety Code section 11055(b)(1)(H).

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1 FIRST CAUSE FOR DISCIPLINE

2 (Failure to Maintain Records of Dangerous Drugs)

3 14. Respondents Store and Walker are subject to disciplinary action under
4 section 4300 and 4301(j) on the grounds of unprofessional conduct for violating sections 4081(a)
5 and 4332 of the Code in conjunction with Title 16, California Code of Regulations, section 1718,
6 for failing to maintain a complete accountability of inventory and failure to comply with a
7 request from a representative of the Board. The circumstances are as follows:

8 a. On or about October 26, 1999, an inspection was conducted on
9 Respondent Store by a Board investigator. Respondent Walker was asked by the investigator to
10 furnish her with a copy of the most recent DEA inventory. Respondent Walker could not locate
11 any inventory except one conducted in 1980.

12 b. On October 26, 1999, the investigator for the Board requested
13 Respondent Walker to furnish the Board with records of acquisition and disposition of Viagra,
14 Vicodin, Vicodin ES and Lortabs for the time period November 1, 1998 to October 26, 1999.
15 On April 12, 2000, the investigator attempted to inspect and obtain the requested records at
16 Respondent Store, but the records were not available. Respondents failed to supply or maintain
17 the required records of acquisition of the drugs and knowingly failed to provide the records when
18 requested.

19 c. From sales documents received from two wholesale distributors
20 used by Respondent Walker, the inspector was able to determine that between November 1, 1998
21 and November 1, 1999, Respondent Walker purchased the following dangerous drugs.

22 <u>Drug</u>	<u>Acquisition</u>	<u>Disposition</u>	<u>Amount to</u>	<u>Stock on Hand</u>	<u>Shortage</u>
			<u>Account for</u>		<u>(Overage)</u>
23 Vicodin	2,000	886	1,114	142	972
24 Generic Vicodin	5,500	5,236	264	1,000	(736)
Vicodin ES	32,000	20,521	11,479	1,120	10,359
25 Generic Vicodin Es	23,900	3,966	19,934	2,010	17,924
26 Phenergan & Codeine Promethazine & Codeine	1,461 pts	281.08 pints	1,179.92 pints	9.8 pints	1,170.12 pts
27 Combined totals					
Viagra 25 mg	150	0	150	100	50
28 Viagra 50 mg	360	57	303	137	166

1 than 20, for an audit of seven (7) drugs for a one-a period and one additional drug for a 1 ½ year
2 time period. By creating a database, listing each Schedule II controlled substance, using
3 Schedule II controlled substance listed on controlled drug usage reports dated April 14, 2000 and
4 April 26, 2000, the inspectors were able to determine that a total of 8,454 dosage unit and 95
5 prescriptions were dispensed without a triplicate prescription or any prescription.

6
7 FOURTH CAUSE FOR DISCIPLINE

8 (Acceptance of Dangerous Drugs by Unauthorized Persons)

9 18. Respondents Store and Walker are further subjected to disciplinary action
10 under section 4300 and 4301(o) on the grounds of unprofessional conduct for violating section
11 4059.5(a) of the Code in that Respondents allowed someone other than a pharmacist or
12 pharmacist-in-charge to accept dangerous drugs. Copies of invoices received from Professional
13 Wholesale revealed that on four different occasions between on or about December 9, 1998 to on
14 or about October 18, 1999, delivery of dangerous drugs were accepted by Respondent Walker's
15 daughter and Herbert McClain, unlicensed persons.

16
17 PRAYER

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

- 20 1. Revoking or suspending Original Pharmacy Permit Number PHY 34980,
21 issued to Walker's Drug Store;
- 22 2. Revoking or suspending Original Pharmacist License Number RPH
23 23819, issued to Isaac J. Walker Jr.;
- 24 3. Ordering Walker's Drug Store and Isaac J. Walker Jr. to pay the Board of
25 Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to
26 Business and Professions Code section 125.3;

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

DATED: 1/5/01

P. J. Harris

PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant