

1 BILL LOCKYER, Attorney General
of the State of California
2 SUSAN FITZGERALD, State Bar No. 112278
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, CA 92101

5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 645-2066
7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:
12 JAE GAB KIM dba SAN JACINTO
PHARMACY
13 100 E Main St
San Jacinto, California 92383
14 Los Angeles, CA 90064-1638
15 Original Pharmacy Permit No. PHY 32401
16 JAE GAB KIM, RPH
30677 E Sunset Drive South
17 Redlands, CA 92373-7368
18 Pharmacist License No. RPH 30029
19
20 Respondents.
21

Case No. 2473
OAH No. L-200203052
**STIPULATED SURRENDER OF
LICENSE AND PHARMACY
PERMIT AND ORDER**

22 In the interest of a prompt and speedy resolution of this matter, consistent with the
23 public interest and the responsibility of the Board of Pharmacy of the Department of Consumer
24 Affairs the parties hereby agree to the following Stipulated Surrender of License and Pharmacy
25 Permit and Order, which will be submitted to the Board for approval and adoption as the final
26 disposition of the Accusation.

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1 PARTIES

2 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of
3 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
4 by Bill Lockyer, Attorney General of the State of California, by Susan Fitzgerald, Deputy
5 Attorney General.

6 2. Jae Gab Kim, individually and doing business as SAN JACINTO
7 PHARMACY (jointly "Respondent"), is represented in this proceeding by attorney Henry Lewin,
8 whose address is Lewin & Levin, 11377 West Olympic Blvd., 5th Fl., Los Angeles, CA
9 90064-1638.

10 3. On or about December 4, 1975, the Board of Pharmacy issued Pharmacist
11 License No. RPH 30029 to Jae Gab Kim. The pharmacist license was in full force and effect at
12 all times relevant to the charges brought in Accusation No. 2473 and will expire on December
13 31, 2003.

14 4. On or about October 2, 1985, the Board of Pharmacy issued Original
15 Pharmacy Permit No. PHY 32401 to JAE GAB KIM dba SAN JACINTO PHARMACY. The
16 permit was in full force and effect at all times relevant to the charges brought in Accusation No.
17 2473 and will expire on October 1, 2003.

18 JURISDICTION

19 5. Accusation No. 2473 was filed before the Board of Pharmacy (Board),
20 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
21 and all other statutorily required documents were properly served on Respondent on February 22,
22 2002. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of
23 Accusation No. 2473 is attached as exhibit A and incorporated herein by reference.

24 ADVISEMENT AND WAIVERS

25 6. Respondent has carefully read, fully discussed with counsel, and
26 understands the charges and allegations in Accusation No. 2473. Respondent also has carefully
27 read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of
28 License and Pharmacy Permit and Order.

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

8 8. Respondent voluntarily, knowingly, and intelligently waives and gives up
9 each and every right set forth above.

10 9. Costs of investigation and enforcement in this matter, though June 3, 2003
11 are \$14,888.00.

12 10. Respondent agrees that he shall not, in any capacity, either be employed by
13 or at, or work without compensation for or at, the pharmacy/ business at 100 E. Main Street, San
14 Jacinto, California after his licenses are surrendered.

15 Should respondent violate this provision, he agrees that the \$14,888.00 amount of
16 deferred cost recovery shall be immediately due and owing by him, personally, to the Board, and
17 he agrees to the jurisdiction of the Riverside County Consolidated Courts system for any legal or
18 equitable action that the Board shall take to recovery said amount and any Board attorney's fees
19 associated with such an action.

20 11. Respondent understands that by signing this stipulation he enables the
21 Board to issue an order accepting the surrender of his Pharmacist License and Original Pharmacy
22 Permit without further process.

23 12. Respondent understands and agrees that if he ever applies for licensure or
24 a pharmacy permit or petitions for reinstatement in the State of California, the Board shall treat it
25 as a new application(s) for licensure. Respondent must comply with all the laws, regulations and
26 procedures for licensure in effect at the time the application or petition is filed, and all of the
27 charges and allegations contained in Accusation No. 2473 shall be deemed to be true, correct,
28 and admitted by Respondent when the Board determines whether to grant or deny the

1 1. The surrender of Respondent's Original Pharmacy Permit and Pharmacist
2 License and the acceptance of these surrenders by the Board shall constitute the imposition of
3 discipline against Respondent. This stipulation constitutes a record of the discipline and shall
4 become a part of Respondent's license history with the Board.

5 2 Respondent shall lose all rights and privileges as a pharmacist in
6 California as of the effective date of the Board's Decision and Order and the Original Pharmacy
7 Permit previously issued to respondent shall be canceled as of the effective date of the Board's
8 Decision and Order herein unless it is canceled by operation of law pursuant to a sale of the
9 business before that date.

10 3. Respondent shall cause to be delivered to the Board both his pharmacist
11 wall and pocket license certificate and Original Pharmacy Permit on or before the effective date
12 of the Board's Decision and Order

13 4. If respondent ever applies for licensure or petitions for reinstatement in the
14 State of California, the Board shall treat it as a new application for licensure. Respondent must
15 comply with all the laws, regulations and procedures for licensure in effect at the time the
16 application or petition is filed, and all of the charges and allegations contained in Accusation No.
17 2473 shall be deemed to be true, correct, and admitted by Respondent when the Board
18 determines whether to grant or deny the application or petition.

19 5. Respondent shall pay the Board its costs of investigation and enforcement
20 in the amount of \$14,888.00 prior to issuance of any new or reinstated license of any kind from
21 the Board of Pharmacy.

22 6. Respondent shall not, in any capacity, either be employed by or at, or work
23 without compensation for or at, the pharmacy/ business at 100 E. Main Street, San Jacinto,
24 California after his licenses are surrendered. Should respondent violate this provision, the
25 \$14,888.00 amount of deferred cost recovery becomes immediately due and owing by him,

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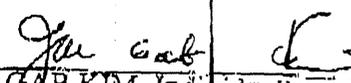
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1 personally, to the Board, and the Board may seek recovery of that amount and attorney's fees in a
2 legal or equitable action in the Riverside County Consolidated Courts system.

3 ACCEPTANCE

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

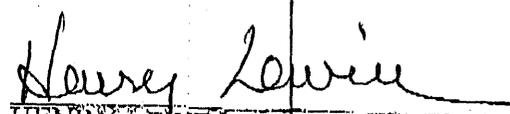
10 DATED: June 17, 2003.

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12 
13 JAE GAB KIM, Individually and as Owner
14 of SAN JACINTO PHARMACY

15 Respondents

16 I have read and fully discussed with Respondent Jae Gab Kim the terms and conditions
17 and other matters contained in this Stipulated Surrender of License and Pharmacy Permit and
18 Order. I approve its form and content.

19 DATED: June 17, 2003.

20
21 
22 HENRY LEWIN
23 Attorney for Respondent

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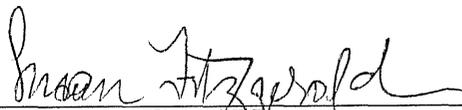
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ENDORSEMENT

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

DATED: June 18, 2003.

BILL LOCKYER, Attorney General
of the State of California



SUSAN FITZGERALD
Deputy Attorney General

Attorneys for Complainant

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

In the Matter of the Accusation Against:

JAE GAB KIM DBA SAN JACINTO
PHARMACY
100 E Main St
San Jacinto, California 92383
Los Angeles, CA 90064-1638

Original Pharmacy Permit No. PHY 32401

JAE GAB KIM, RPH
30677 E Sunset Drive South
Redlands, CA 92373-7368

Pharmacist License No. RPH 30029

Respondents.

Case No. 2473

OAH No. L-200203052

DECISION AND ORDER

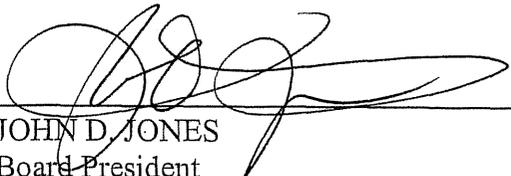
The attached Stipulated Surrender of License and Pharmacy Permit and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on September 15, 2003.

It is so ORDERED August 16, 2003.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



JOHN D. JONES
Board President

Exhibit A
Accusation No. 2473

1 BILL LOCKYER, Attorney General
of the State of California
2 SUSAN FITZGERALD, State Bar No. 112278
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, CA 92101

5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 645-2066
Facsimile: (619) 645-2061

7 Attorneys for Complainant
8

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

12 In the Matter of the Accusation Against:
13 Jae Gab Kim dba SAN JACINTO PHARMACY
100 E Main St
14 San Jacinto, CA 92383
15 Original Pharmacy Permit No. PHY 32401
16 and
17 JAE GAB KIM, RPH,
30677 E Sunset Dr South
18 Redlands, CA 92373-7368
19 Pharmacist License No. RPH 30029
20 Respondents.

Case No. 2473

ACCUSATION

21
22 Complainant alleges:

23 PARTIES

- 24 1. Patricia F. Harris (Complainant) brings this Accusation solely in her
25 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
26 Affairs.
27 2. On or about October 2, 1985, the Board of Pharmacy issued Original
28 Pharmacy Permit Number PHY 32401 to Jae Gab Kim dba SAN JACINTO PHARMACY

1 (Respondent Pharmacy). The Original Pharmacy Permit was in full force and effect at all times
2 relevant to the charges brought herein and will expire on October 1, 2002, unless renewed.

3 3. On or about December 4, 1975, the Board of Pharmacy issued Pharmacist
4 License Number RPH 30029 to JAE GAB KIM, RPH (Kim). The Pharmacist License was in
5 full force and effect at all times relevant to the charges brought herein and will expire on
6 December 31, 2003, unless renewed.

7 4. At all times relevant herein, Respondent Kim has been and is the
8 Pharmacist-in-Charge (PIC) of Respondent Pharmacy.

9 JURISDICTION

10 5. This Accusation is brought before the Board of Pharmacy (Board), under
11 the authority of the following sections of the Business and Professions Code (Code):

12 A. Section 4300 of the Code states in pertinent part that every license issued
13 by the Board may be suspended, revoked, or otherwise disciplined.

14 B. Section 4301 of the Code states that the Board shall take action against
15 any holder of a license who is guilty of unprofessional conduct or whose licensè has been
16 procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall
17 include, but is not limited to, any of the following:

18 "(a) Gross immorality.

19 "...

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

23 "...

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

26 "...

27 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or
28 abetting the violation of or conspiring to violate any provision or term of Chapter 9 (commencing

1 with Section 4000) of the Business and Professions Code or of the applicable federal and state
2 laws and regulations governing pharmacy, including regulations established by the board.

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

4 C. Section 4059 of the Code states, in pertinent part, that no person shall
5 furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist, or
6 veterinarian. No person shall furnish any dangerous device, except upon the prescription of a
7 physician, dentist, podiatrist, optometrist, or veterinarian.

8 D. Section 4060 of the Code states that no person shall possess any controlled
9 substance, except that furnished to a person upon the prescription of a physician, dentist,
10 podiatrist, or veterinarian. This section shall not apply to the possession of any controlled
11 substance by a manufacturer or wholesaler or a pharmacy, physician, podiatrist, dentist, or
12 veterinarian, when in stock in containers correctly labeled with the name and address of the
13 supplier or producer.

14 E. Section 4022 of the Code states that "dangerous drug" or "dangerous
15 device" means any drug or device unsafe for self-use, except veterinary drugs that are labeled as
16 such, and includes the following:

17 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
18 without prescription" or words of similar import.

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

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

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

1 6. This pleading also refers to the following sections of the California Health
2 & Safety Code (H&S Code):

3 A. H&S Code section 11000 states in pertinent part as follows:

4 "(a) Any manufacturer, wholesaler, retailer, or other person in this state who sells,
5 transfers, or otherwise furnishes any of the following substances to any person or business entity
6 in this state or any other state shall submit a report to the Department of Justice of all of those
7 transactions:

8 "...

9 "(17) Pseudoephedrine

10 "..."

11 B. H&S Code section 11104 states in pertinent part as follows:

12 "(a) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or
13 otherwise furnishes any of the substances listed in subdivision (a) of Section
14 11100 with knowledge or the intent that the recipient will use the substance to
15 unlawfully manufacture a controlled substance is guilty of a felony.

16 "..."

17 C. H&S Code section 11170 states "No person shall prescribe, administer, or
18 furnish a controlled substance to himself."

19 8. This pleading also refers to the following sections of Title 21, United
20 States Code of Federal Regulations (CFR):

21 A. Section 1310.05 states in pertinent part:

22 "(a) Each regulated person shall report to the Special Agent in Charge of the DEA
23 Divisional Office for the area in which the regulated person making the report is
24 located, as follows:

25 "(1) Any regulated transaction involving an extraordinary quantity of a listed
26 chemical, an uncommon method of payment or delivery, or any other
27 circumstance that the regulated person believes may indicate that the listed

28 ///

1 chemical will be used in violation of this part.

2 "..."

3 B. Section 1310.07 states in pertinent part:

4 "(a) Each regulated person who engages in a regulated transaction must identify
5 the other party to the transaction. For domestic transaction, this shall be
6 accomplished by having the other party present documents which would verify
7 the identity...of the other party to the regulated person at the time the order is
8 placed. . .

9 "..."

10 "(d) For sales to individuals or cash purchasers, the type of documents and other
11 evidence of proof must consist of at least a signature of the purchaser, a driver's license and one
12 other form of identification. . .

13 "..."

14 DRUGS

15 9. Testosterone is an androgen hormone and an anabolic steroid. It is a
16 dangerous drug under Code section 4022 and a Schedule III controlled substance under H&S
17 Code section 11056.

18 10. Propoxyphene Napsylate 100 mg. and Acetaminophen 650 mg. is the
19 generic for the common trade name drug Darvocet-N. It is a dangerous drug under Code section
20 4022 and a Schedule IV controlled substance under H&S Code section 11057.

21 11. The following are all classified as dangerous drugs under Code section
22 4022: Amoxicillin, Duofilm, Indocin, Lidocaine 2% Injection, Motrin 600 mg., Podophyllin,
23 Soma, Sulfasalazine, Fioricet, Tolbutamide, vaginal sulfa cream, Torecan, and magnesium
24 sulphate.

25 CHARGES AND ALLEGATIONS

26 12. In 1999, a detective from the Allied Riverside Cities Narcotics
27 Enforcement Team (ARCNET) met with respondent Kim at respondent pharmacy. During the
28 discussion which followed, Kim described a scenario he had witnessed repeatedly at his

1 pharmacy in which a carload of individuals would come to the pharmacy and its occupants
2 would - one at a time - enter the pharmacy and purchase pseudoephedrine. He sold each
3 individual two bottles of the drug. Kim also described another scenario where at least once, four
4 individuals came into the pharmacy together and lined up to buy 2 bottles of pseudoephedrine
5 each. Kim admitted to the detective that Kim knew that those customers were purchasing the
6 drug to make methamphetamine.

7 13. On June 9, 2000, an undercover agent (UC) entered respondent pharmacy
8 and asked to purchase 5 bottles of pseudoephedrine. The clerk looked to Kim for guidance and
9 Kim told the UC he could only buy one bottle of 100 60 mg. tablets, which the UC did. At no
10 time did Kim or any agent of his ask for identification from the purchaser or report the sale to the
11 authorities.

12 14. On July 12, 2000, an undercover agent (UC) entered respondent pharmacy
13 and asked to purchase 5 or 6 bottles of pseudoephedrine. The clerk consulted with Kim and told
14 the UC he could purchase only one bottle, which he did. At no time did Kim or any agent of his
15 ask for identification from the purchaser or report the sale to the authorities.

16 15. On July 13, 2000, the same UC who had purchased a bottle of 100 tablets
17 of pseudoephedrine the day before, re-entered respondent pharmacy and requested to buy 3 more
18 bottles. The UC was recognized as having purchased a bottle the day before. The UC was
19 allowed to purchase another 100 count bottle of 60 mg. pseudoephedrine. At no time did Kim or
20 any agent of his ask for identification from the purchaser or report the sale to the authorities.

21 16. On July 14, 2000, the same UC again entered respondent pharmacy and
22 asked to buy some ephedrine. He again was allowed to purchase a bottle of 100 60 mg.
23 pseudoephedrine. At no time did Kim or any agent of his ask for identification from the
24 purchaser or report the sale to the authorities.

25 17. On July 28, 2000, the same UC against purchased a bottle of 100 60 mg.
26 pseudoephedrine from respondent pharmacy. This time, he did not even have to ask for it. The
27 clerk saw him, reached behind the counter for a bottle and sold it to him. At no time did Kim or
28 any agent of his ask for identification from the purchaser or report the sale to the authorities.

1 18. On August 30, 2000, inspectors from the Board were at respondent
2 pharmacy and observed the sale of a bottle of 100 60 mg. tablets of pseudoephedrine without
3 inquiry as to the identification of the purchaser. The inspectors observed a large stock of bottles
4 of 100 60 mg. pseudoephedrine tablets directly under the counter where the cash register was.
5 During this visit, the Board inspectors reviewed with both Kim and his clerk the use of
6 pseudoephedrine in the manufacture of methamphetamine and the laws about reporting sales.
7 Respondent Kim said he was well aware of the laws already and very familiar with drugs used
8 illicitly and of the problem with pseudoephedrine.

9 19. On January 4, 2001, three UCs entered respondent pharmacy together.
10 They asked for bottles of pseudoephedrine. Told the pharmacy was out of bottles of 100, they
11 were told by Kim's clerk they could each buy 3 packages of 96 count and 6 packages of 24
12 count without giving rise to any reporting requirement. Respondent Kim told the three UCs that
13 they could not buy all of the packages on the shelf, as someone might want to buy them for a
14 legitimate use.

15 The undercover agents also asked Kim to sell them alcohol which they would use
16 to break down the pills. Kim advised they would need 99% alcohol to do so. The agents also
17 asked about peroxide and iodine¹ and Kim advised them to buy 4% iodine, the strongest level.

18 The undercover agents were also told that their purchases would have to be rung
19 up and paid for separately. However, all the cash for all of the separate purchases was paid for
20 by one agent, who doled out the necessary money to each of the others in front of the clerk. At
21 no time did Kim or any agent of his ask for identification from the purchasers or report the sales
22 to the authorities.

23 20. On January 5, 2001, the same three undercover agents again entered
24 respondent pharmacy and each asked for a bottle of pseudoephedrine. The clerk allowed each of
25 them to purchase one bottle of 100 60 mg. pseudoephedrine tablets and 2 packages of 24 count
26 60 mg. pseudoephedrine. Again, as each of the purchases were separately rung up for each
27

28 1. Both peroxide and iodine are chemicals used in the manufacture of methamphetamine.

1 agent, one agent provided the money in front of the clerk for all three purchases. At no time did
2 Kim or any agent of his ask for identification from the purchasers or report the sales to the
3 authorities.

4 21. Between June 3, 1999 and February 9, 2001, respondents purchased
5 605,036 tablets of 60 mg. pseudoephedrine and 64,840 tablets of 30 mg. pseudoephedrine.

6 22. On March 2, 2001, respondents had a number of expired dangerous drugs
7 in the pharmacy stock, which included, but were not limited to, Rugby Vaginal Sulfa ream
8 (expired 5/87), Ogen Vaginal cream (expired 1988), Torecan (expired 11/90), and magnesium
9 sulphate 5gm/10ml (expired 11/92).

10 23. On March 2, 2001, Kim possessed, at his home and without prescription,
11 both Testosterone and propoxyphene napsylate 100 mg. with acetaminophen 650 mg.

12 24. On March 2, 2001, Kim possessed, at his home and without prescription,
13 the following dangerous drugs: Amoxicillin, Duofilm, Indocin, Lidocaine 2% Injection, Motrin
14 600 mg., Podophyllin, Soma, Sulfasalazine, Fioricet, and Tolbutamide.

15 **First Cause for Discipline Against Respondent Kim**

16 **(Unprofessional Conduct: Gross Immorality or General Unprofessional Conduct)**

17 25. Respondent Jae Gab Kim, RPH is subject to disciplinary action under
18 section 4301(a) for gross immorality for selling pseudoephedrine in quantities and to individuals
19 who he believed would not be using the drug for its legitimate purpose and would, in fact, be
20 using the drug to manufacture methamphetamine. This charge is based on paragraphs 12 through
21 21 above, which are incorporated herein by reference.

22 Alternatively, if Respondent Kim is not subject to disciplinary action for gross
23 immorality, as alleged in paragraph 25 above and based on paragraphs 12 through 21 above, he is
24 subject to disciplinary action for general unprofessional conduct based on the same acts and
25 omissions as pled in paragraphs 12 through 21, which are incorporated herein by reference.

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1 **Second Cause for Discipline Against Respondent Kim**

2 **(Unprofessional Conduct: Violating Laws Governing Pharmacy)**

3 26. Respondent Jae Gab Kim, RPH is subject to disciplinary action under
4 section 4301(o) in conjunction with section 4059 in that he furnished to himself or others
5 dangerous drugs (which include controlled substances) without a prescription. This charge is
6 based on paragraphs 23 and 24 above, which are incorporated herein by reference.

7 **Third Cause for Discipline Against Respondent Kim**

8 **(Unprofessional Conduct: Violation of Statutes re Controlled Substances)**

9 27. Respondent Jae Gab Kim, RPH is subject to disciplinary action under
10 section 4301(o) in conjunction with section 4060 in that he illegally possessed controlled
11 substances. This charge is based on paragraph 23 above, which is incorporated herein by
12 reference.

13 **Fourth Cause for Discipline Against Respondent Kim**

14 **(Unprofessional Conduct: Violation of Statutes re Controlled Substances)**

15 28. Respondent Jae Gab Kim, RPH is subject to disciplinary action under
16 section 4301(j) in conjunction with H&S Code section 11170 in that he illegally prescribed,
17 administered or furnished controlled substances to himself. This charge is based on paragraph 23
18 above, which is incorporated herein by reference.

19 **Fifth Cause for Discipline Against Respondent Kim**

20 **(Unprofessional Conduct: Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)**

21 29. Respondent Jae Gab Kim, RPH is subject to disciplinary action under
22 section 4301(f) for moral turpitude. This charge has two independent bases, as follows:

23 A. Respondent Kim's possession of controlled substances and dangerous
24 drugs at his home and without prescription. This charge is based on paragraphs 23 and 24 above,
25 which are incorporated herein by reference;

26 B. Respondent Kim's continuing willingness to allow expired stock to remain
27 in his pharmacy, which stock was potentially available for dispensing to unsuspecting
28 consumers, even after receiving discipline by the Board for, among other things, this same

1 problem. This charge is based on paragraph 22 above and respondent's prior disciplinary history
2 with the Board in Decision No. 1861. (See below.)

3 C. Respondent Kim's unwillingness in 2000-2001 to abide by the customer
4 identification and reporting laws and regulations he knew he should when selling
5 pseudoephedrine to customers. This charge is based on paragraphs 12 through 20 above, which
6 are incorporated herein by reference.

7 **Sixth Cause for Discipline Against Respondent Kim**

8 **(Unprofessional Conduct: Violation of Reporting Law)**

9 30. Respondent Jae Gab Kim, RPH is subject to disciplinary action under
10 section 4301(o) in conjunction with H&S Code sections 11100, 11104 and sections 1310.5(a)(1)
11 and 1310.07(a) and (d) of Title 21 of the CFR in that he failed to comply with the identification
12 of customers and reporting requirements of state and federal law related to the sale of
13 pseudoephedrine. This charge is based on paragraphs 12 through 20 above, which are
14 incorporated herein by reference.

15 **Seventh Cause for Discipline - Re Respondent Pharmacy**

16 31. By virtue of pharmacist Jae Gab Kim's ownership of San Jacinto
17 Pharmacy, his status as the PIC, and his violations of state and federal law and regulation related
18 to the practice of pharmacy, dangerous drugs and controlled substances, San Jacinto Pharmacy's
19 original pharmacy permit is subject to revocation, suspension, or other disciplinary action. This
20 charge is based on paragraphs 2 through 4 and 12 through 30 above, which are incorporated
21 herein by reference.

22 **FACTORS IN AGGRAVATION**

23 **Prior License Discipline**

24 32. On or about March 31, 1998, the Board issued its Decision in Case No.
25 1861 against San Jacinto Pharmacy, Jae Gab Kim, owner, and Jae Gab Kim, RPH. Both licenses
26 were revoked, with revocation stayed and 3 years probation with various terms and conditions of
27 probation. Those terms included, but were not limited to, 120 days actual suspension of
28 pharmacist license and 30 days actual suspension of the pharmacy permit.

