

1 BILL LOCKYER, Attorney General
of the State of California
2 ANNE HUNTER, State Bar No. 136982
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2114
5 Facsimile: (213) 897-2804

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 MAHER H. KALDAS dba OWL REXALL
DRUG, MAHER HALIM KALDAS, NAGWA
13 KALDAS, ALBERT SOLIMAN, dba OWL
HOMECARE PHARMACY, and ALBERT
14 SOLIMAN dba MINACEUTICALS
WHOLESALE;

15 In the Matter of the Statement of Issues Against:

16 K & S OWL, INC. DBA OWL REXALL
DRUG, et al.; and

17 In the Matter of the Statement of Issues Against:

18 K & S OWL, INC. DBA OWL HOMECARE
19 PHARMACY, et al.,

20 Respondents.

Case No. 2497
OAH No. L-2002080148

Case No. 2522
OAH No. L-2002080149

Case No. 2523
OAH No. L-2002080150

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

21
22 In the interest of a prompt and speedy settlement 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 Settlement and Disciplinary Order
25 which will be submitted to the Board for approval and adoption as the final disposition of the
26 Accusation in Pharmacy Board Case No. 2497, the Statement of Issues in Case No. 2522, and the
27 Statement of Issues in Case No. 2523.

28 ///

PARTIES

1
2 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of
3 Pharmacy (Board). She brought these three actions solely in her official capacity. Bill Lockyer,
4 Attorney General of the State of California, by Anne Hunter, Deputy Attorney General,
5 represents her in these proceedings.

6 2. Respondents in Accusation No. 2497 are Maher H. Kaldas, Maher H.
7 Kaldas dba Owl Rexall Drug, Maher H. Kaldas dba Owl Homecare Pharmacy, Nagwa Kaldas,
8 Albert Soliman, and Albert Soliman dba Minaceuticals Wholesale. Attorney Ronald S. Marks,
9 whose address is A Professional Law Corporation, 6320 Canoga Avenue, Woodland Hills, CA
10 91367, represents all of the respondents in this proceeding.

11 3. On or about March 12, 1985, the Board issued Original Pharmacist
12 License No. RPH 39184 to Maher H. Kaldas to practice pharmacy in California. The license was
13 in full force and effect at all times relevant to the charges brought in Accusation No. 2497 and
14 will expire on February 28, 2005, unless renewed.

15 4. On or about August 21, 1995, the Board issued Original Pharmacy Permit
16 No. PHY 41061 to Maher H. Kaldas dba Owl Rexall Pharmacy. The Permit was in full force and
17 effect at all times relevant to the charges brought in Accusation No. 2497 and will expire on
18 August 1, 2004, unless renewed.

19 5. On or about March 13, 1998, the Board issued Original Pharmacy Permit
20 No. PHY 43534 to Maher H. Kaldas dba Owl Homecare Pharmacy. The Permit was in full
21 force and effect at all times relevant to the charges brought in Accusation No. 2497 and will
22 expire on March 1, 2004, unless renewed.

23 6. On or about March 12, 1985, the Board issued Original Pharmacist
24 License No. RPH 44172 to Nagwa L. Kaldas to practice pharmacy in California. The license was
25 in full force and effect at all times relevant to the charges brought in Accusation No. 2497 and
26 will expire on July 31, 2004, unless renewed.

27 7. On or about September 17, 1991, the Board of Pharmacy issued Original
28 Pharmacist License No. RPH 44883 to Albert B. Soliman to practice pharmacy in California.

1 The license was in full force and effect at all times relevant to the charges brought in
2 Accusation No. 2497, and will expire on August 31, 2005, unless renewed.

3 8. On or about September 20, 1999, the Board issued Original Wholesale
4 Permit No. WLS 2955 to Albert B. Soliman dba Minaceuticals Wholesale. The Permit was in
5 full force and effect at all times relevant to the charges brought in Accusation No. 2497 and will
6 expire on September 1, 2004, unless renewed.

7 9. K & S Owl, Inc. dba Owl Rexall Drug; Maher H. Kaldas, President and
8 CEO; and Albert B. Soliman, Secretary-Treasurer are the respondents in Statement of Issues
9 Case No. 2522. Attorney Ronald S. Marks, whose address is A Professional Law Corporation,
10 6320 Canoga Avenue, Woodland Hills, CA 91367, represents all of the respondents in this
11 proceeding.

12 10. On or about September 10, 2000, K & S Owl, Inc., dba Owl Rexall Drug
13 applied for a Change of Ownership Pharmacy Permit. The Board denied the application on or
14 about February 5, 2002.

15 11. K & S Owl, Inc. dba Owl Homecare Pharmacy; Maher H. Kaldas,
16 President and CEO; and Albert B. Soliman, Secretary-Treasurer are the respondents in Statement
17 of Issues Case No. 2523. Attorney Ronald S. Marks, whose address is A Professional Law
18 Corporation, 6320 Canoga Avenue, Woodland Hills, CA 91367, represents all of the
19 respondents in this proceeding.

20 12. On or about September 10, 2000, K & S Owl, Inc., dba Owl Rexall Drug
21 applied for a Change of Ownership Pharmacy Permit. The Board denied the application on or
22 about February 5, 2002.

23 JURISDICTION

24 13. Accusation No. 2497 was filed before the Board, Department of Consumer
25 Affairs, and is currently pending against the respondents set forth in paragraph no. 2 above. The
26 Accusation and all other statutorily required documents were properly served on respondents on
27 July 10, 2002. Respondents timely filed their Notice of Defense contesting the Accusation. A
28 copy of Accusation No. 2497 is attached as exhibit A and incorporated herein by reference.

1 dba Owl Rexall Drug; and from Original Pharmacy Permit No. PHY 43534 issued to
2 Respondent Maher H. Kaldas dba Owl Homecare Pharmacy to K & S Owl, Inc. dba Owl
3 Homecare Pharmacy be GRANTED, that the permits be issued in the new name and immediately
4 revoked. However, the revocation is stayed, and respondent pharmacies and wholesaler are
5 placed on probation for two (2) years on the following terms and conditions.

6 IT IS HEREBY FURTHER ORDERED that Original Pharmacist License
7 No.'s RPH 39184, RPH 44172 and RPH 44883 issued respectively to Maher H. Kaldas, Nagwa
8 L. Kaldas and Albert B. Soliman are revoked. However, the revocation orders are stayed and
9 respondent pharmacists are placed on probation for one (1) year on the following terms and
10 conditions:¹

11 1. **Obey All Laws.** Respondents shall obey all state and federal laws and
12 regulations substantially related to or governing the practice of pharmacy.

13 Respondents shall report any of the following occurrences to the Board, in
14 writing, within 72 hours of such occurrence:

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

25
26
27
28 1. For convenience, the three pharmacist respondents and the three premises are collectively referred to as "respondents."

1 2. **Reporting to the Board.** Respondents shall report to the Board
2 quarterly. The report shall be made either in person or in writing, as directed. Respondents
3 shall each state under penalty of perjury whether there has been compliance with all the terms
4 and conditions of probation. If the final probation report **is not** made as directed, probation
5 shall be extended automatically until such time as the final report is made and accepted by the
6 Board.

7 3. **Interview with the Board.** Upon receipt of reasonable notice,
8 respondents shall appear in person for interviews with the Board upon request at various
9 intervals at a location to be determined by the Board. Failure to appear for a scheduled
10 interview without prior notification to Board staff shall be considered a violation of probation.

11 4. **Cooperation with Board Staff.** Respondents shall cooperate with the
12 Board's inspectional program and in the Board's monitoring and investigation of respondents'
13 compliance with the terms and conditions of Entity probation. Failure to comply shall be
14 considered a violation of probation.

15 5. **Continuing Education.** Respondents shall provide evidence of efforts
16 to maintain skill and knowledge as pharmacists as directed by the Board.

17 6. **Notice to Employers.** Respondents shall notify all present and
18 prospective employers of the decision in case numbers 2497, 2522 and 2523 and of the terms,
19 conditions and restrictions the decision imposes on them. Within 30 days of the effective date
20 of this decision, and within 15 days of any of the respondents undertaking new employment,
21 the involved respondent pharmacist shall cause his or her direct supervisor, pharmacist-in-
22 charge and/or owner to report to the Board in writing acknowledging the employer has read
23 the decision in case numbers 2497, 2522 and 2523.

24 If any of the respondents works for or is employed by or through a pharmacy
25 employment service, that respondent pharmacist must notify the direct supervisor, pharmacist-
26 in-charge, and/or owner at every pharmacy of the and terms conditions of the decision in case
27 numbers 2497, 2522 and 2523 before the Respondent begins work at each pharmacy.

28 "Employment" within the meaning of this provision shall include any full-time, part-

1 time, temporary, relief or pharmacy management service as a pharmacist, whether the
2 Respondent is considered an employee or independent contractor.

3 7. **Notice to Employees.** Respondents shall, upon or before the effective
4 date of this decision, ensure that all employees involved in permit operations are made aware
5 of the terms and conditions of probation, either by posting a notice of the terms and
6 conditions, circulating such notice, or both. If the notice required by this provision is posted,
7 it shall be posted in a prominent place and shall remain posted throughout the probation
8 period. Respondents shall ensure that any employees hired or used after the effective date of
9 this decision are made aware of the terms and conditions by posting a notice, circulating a
10 notice, or both.

11 "Employees" as used in this provision includes all full-time, part-time, temporary and
12 relief employees, and independent contractors employed or hired at any time during
13 probation.

14 8. **Owners and Officers: Knowledge of the Law.** Respondents shall
15 provide, within 30 days after the effective date of the decision, signed and dated statements
16 from its owners, including any owner or holder of 10% or more of the interest in respondents
17 or respondents' stock, and any officer, stating such individuals have read and are familiar with
18 state and federal laws and regulations governing the practice of pharmacy.

19 9. **No Preceptorships, Supervision of Interns, Being Pharmacist-in-**
20 **Charge (PIC), or Serving as a Consultant.** Respondents shall not supervise any intern
21 pharmacist or perform any of the duties of a preceptor, nor shall respondents be the
22 pharmacist-in-charge of any entity licensed by the Board unless otherwise specified in this
23 order.

24 10. **Reimbursement of Board Costs.** Respondents shall pay to the Board
25 its costs of investigation and prosecution totaling \$7500.00. Respondents shall make full
26 payment within sixty (60) days of the effective date of the decision.

27 The filing of bankruptcy by any respondent shall not relieve that respondent of
28 his, her or its responsibility to reimburse the Board its costs of investigation and prosecution.

1 11. **Probation Monitoring Costs.** Respondents shall pay the costs
2 associated with probation monitoring as determined by the Board each and every year of
3 probation. Such costs shall be payable to the Board at the end of each year of probation.
4 Failure to pay such costs shall be considered a violation of probation.

5 12. **Status of License.** Each of the respondents shall, at all times while on
6 probation, maintain an active current license with the Board, including any period during
7 which suspension or probation is tolled.

8 If any of the respondents' licenses or permits expires or is cancelled by
9 operation of law or otherwise; upon renewal or reapplication, that license or permit shall be
10 subject to all terms and conditions of this probation not previously satisfied.

11 13. **License/Permit Surrender while on Probation.** Following the
12 effective date of this decision, should any of the respondents cease practice due to retirement
13 or health, or be otherwise unable to satisfy the terms and conditions of probation, that
14 respondent may tender the individual or entity license to the Board for surrender. The Board
15 shall have the discretion whether to grant the request for surrender or take any other action it
16 deems appropriate and reasonable. Upon formal acceptance of the surrender of the license,
17 the respondent pharmacist will no longer be subject to the terms and conditions of probation.

18 Respondent pharmacist shall relinquish his, her or the entity's pocket license to
19 the Board within 10 days of the Board's notification that the surrender is accepted. The
20 respondent pharmacist may not reapply for any license from the Board for three years from the
21 effective date of the surrender. The respondent pharmacist shall meet all requirements
22 applicable to the license sought as of the date the application for that license is submitted to
23 the Board.

24 14. **Notification of Employment/Mailing Address Change.** Respondents
25 shall notify the Board in writing within 10 days of any change of employment. Said
26 notification shall include the reasons for leaving and/or the address of the new employer,
27 supervisor or owner and work schedule if known. Respondents shall notify the Board in
28 writing within 10 days of a change in name, mailing address or phone number.

1 15. **Tolling of Probation.** Should any of the respondents, regardless of
2 residency, for any reason cease practicing pharmacy for a minimum of 40 hours per calendar
3 month in California, that respondent pharmacist must notify the Board in writing within 10
4 days of cessation of the practice of pharmacy or the resumption of the practice of pharmacy.
5 Such periods of time shall not apply to reduce the probation period. It is a violation of
6 probation for any respondent pharmacist's probation to remain tolled pursuant to the
7 provisions of this condition for a period exceeding three years.

8 “Cessation of practice” means any period of time exceeding 30 days in which
9 Respondent is not engaged in the practice of pharmacy as defined in Section
10 4052 of the Business and Professions Code.

11
12 16. **Violation of Probation.** If any respondent violates probation in any
13 respect, the Board, after giving respondents notice and an opportunity to be heard, may revoke
14 probation and carry out the disciplinary order which was stayed. If a petition to revoke
15 probation or an accusation is filed against any respondent during probation, the Board shall
16 have continuing jurisdiction and the period of probation shall be extended, until the petition to
17 revoke probation or accusation is heard and decided.

18 If any respondent has not complied with any term or condition of probation, the
19 Board shall have continuing jurisdiction over that respondent, and probation shall
20 automatically be extended until all terms and conditions have been satisfied or the Board has
21 taken other action as deemed appropriate to treat the failure to comply as a violation of
22 probation, to terminate probation, and to impose the penalty which was stayed.

23 17. **Completion of Probation.** Upon successful completion of probation,
24 Respondents’ licenses and/or permits will be fully restored.

25 18. **No Ownership of Additional Premises.** Until the two year
26 probationary period has been successfully completed, none of the respondents shall acquire
27 any new ownership, legal or beneficial interest or serve as a manager, administrator, member,
28 officer, director, trustee, associate, or partner of any additional business, firm, partnership, or

RONALD S. MARKS

2132975328

P. 13

JAN 13 2004 13:03

818-3473334

CITY GENERAL OFFICE

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of

Pharmacy.

DATED: 1/13/04

M. Kaldas

MAHER H. KALDAS DBA OWL REXALL DRUG
Respondent

M. Kaldas

MAHER H. KALDAS DBA OWL HOMECARE
PHARMACY
Respondent

M. Kaldas

MAHER H. KALDAS
Respondent

Nagwa Kaldas

NAGWA L. KALDAS
Respondent

Albert B. Soliman

ALBERT B. SOLIMAN, DBA MINACEUTICALS
WHOLESALE
Respondent

Albert B. Soliman

ALBERT B. SOLIMAN
Respondent

I have read and fully discussed with all respondents the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 1/19/04

Ronald S. Marks
RONALD S. MARKS
Attorney for Respondent

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ENDORSEMENT

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

DATED: January 13, 2004.

BILL LOCKYER, Attorney General
of the State of California



ANNE HUNTER
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:

MAHER H. KALDAS dba OWL REXALL
DRUG, MAHER HALIM KALDAS, NAGWA
KALDAS, ALBERT SOLIMAN, dba OWL
HOMECARE PHARMACY, and ALBERT
SOLIMAN dba MINACEUTICALS
WHOLESALE;

In the Matter of the Statement of Issues
Against:

K & S OWL, INC. DBA OWL REXALL
DRUG, et al.; and

In the Matter of the Statement of Issues
Against:

K & S OWL, INC. DBA OWL HOMECARE
PHARMACY, et al.,

Respondents.

Case No. 2497
OAH No. L-2002080148

Case No. 2522
OAH No. L-2002080149

Case No. 2523
OAH No. L-2002080150

DECISION AND ORDER

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

This Decision shall become effective on April 18, 2004.

It is so ORDERED March 19, 2004.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



JOHN D. JONES
Board President

1 BILL LOCKYER, Attorney General
of the State of California
2 KIMBERLEE D. KING, State Bar No. 141813
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2581
5 Facsimile: (213) 897-2804
6 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:
12 MAHER H. KALDAS, doing business as
13 OWL REXALL DRUG
14 401 North Vincent Avenue
Covina, CA 91722
15 Original Pharmacy Permit No. PHY 41061
16 and
17 MAHER HALIM KALDAS
19036 E. Summit Ridge Drive
Walnut, CA 91789
18 Original Pharmacist License No. RPH 39184
19 and
20 NAGWA L. KALDAS
21 19036 E. Summit Ridge Drive
Walnut, CA 91789
22 Original Pharmacist License No. RPH 44172\
23 and
24 ALBERT B. SOLIMAN,
25 11309 Freer Street
Arcadia, CA 91006
26 Original Pharmacist License No. RPH 44883
27

Case No. 2497

A C C U S A T I O N

1 MAHER H. KALDAS, doing business as
2 OWL HOMECARE PHARMACY
3 407 North Vincent Avenue
4 Covina, CA 91722

5 Original Pharmacy Permit No. PHY 43534

6 and

7 ALBERT SOLIMAN, doing business as
8 MINACEUTICALS WHOLESAL
9 15462 Arrow Highway #80
10 Baldwin Park, CA 91706

11 Original Wholesale Permit No. WLS 3618

12 and

13 BERGEN BRUNSWIG DRUG COMPANY
14 24903 Avenue Kearny
15 Valencia, CA 91355

16 Original Wholesale Permit No. WLS 1962

17 Respondents.

18 Complainant alleges:

19 PARTIES

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

23 2. On or about August 21, 1995, the Board of Pharmacy issued Original
24 Pharmacy Permit Number PHY 41061 to Maher H. Kaldas to do business as Owl Rexall Drug
25 (Respondent Rexall). The Original Pharmacy Permit was in full force and effect at all times
26 relevant to the charges brought herein and will expire on August 1, 2002, unless renewed.

27 Mahler H. Kaldas, RPH 39184, was the Pharmacist-in-Charge from August 21,
28 1995 through January 8, 1998. Nagwa Kaldas, RPH 44172, is the Pharmacist-in-Charge since
February 22, 1998.

3. On or about March 13, 1991, the Board of Pharmacy issued Original
Pharmacist License Number RPH 39184 to Maher Halim Kaldas (Respondent Kaldas). The

1 Original Pharmacist License was in full force and effect at all times relevant to the charges
2 brought herein and will expire on February 28, 2003, unless renewed.

3 4. On or about March 13, 1991, the Board of Pharmacy issued Original
4 Pharmacist License Number RPH 44172 to Nagwa L. Kaldas (Respondent Nagwa). The
5 Original Pharmacist License was in full force and effect at all times relevant to the charges
6 brought herein and will expire on July 31, 2002, unless renewed.

7 5. On or about September 17, 1991, the Board of Pharmacy issued Original
8 Pharmacist License Number RPH 44883 to Albert B. Soliman (Respondent Soliman). The
9 Original Pharmacist License was in full force and effect at all times relevant to the charges
10 brought herein and will expire on August 31, 2003, unless renewed.

11 6. On or about March 13, 1998, the Board of Pharmacy issued Original
12 Pharmacy Permit Number PHY 43534 to Maher Kaldas to do business as Owl Homecare
13 Pharmacy (Respondent Homecare). The Original Pharmacy Permit was in full force and effect at
14 all times relevant to the charges brought herein and will expire on March 1, 2003, unless
15 renewed.

16 Maher Kaldas, RPH 391894 has been the Pharmacist-in-Charge since March 13,
17 1998.

18 7. On or about September 20, 1999, the Board of Pharmacy issued Original
19 Wholesale Permit Number WLS 3618 to Albert Soliman, to do business as Minaceuticals
20 Wholesale (Respondent Minaceuticals). The Original Wholesale Permit was in full force and
21 effect at all times relevant to the charges brought herein and will expire on September 1, 2002,
22 unless renewed.

23 8. On or about November 21, 1987, the Board of Pharmacy issued Original
24 Wholesale Permit Number WLS 1962 to Bergen Brunswick Drug Company (Respondent
25 Bergen). The Original Wholesale Permit will expire on November 1, 2002, unless renewed.

26 9. On or about February 1, 2001, the Board of Pharmacy issued Original
27 Wholesale Permit Number WLS 3907 to Bindley Western Drug Co. (Bindley). The permit
28 expired on February 1, 2002, and the license was canceled due to change of ownership.

JURISDICTION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

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

12. Section 4301 of the Code states:

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

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

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

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

13. Section 4043 of the Code states that "Wholesaler" means and includes every person who acts as a wholesale merchant, broker, jobber, customs broker, reverse distributor, or agent, who sells for resale, or negotiates for distribution, or takes possession of, any drug or device included in Section 4022. Unless otherwise authorized by law, a wholesaler may not store, warehouse, or authorize the storage or warehousing of drugs with any person or at any location not licensed by the board.

///
///

1 14. Section 4081 of the Code states, in pertinent part:

2 (a) All records of manufacture and of sale, acquisition, or disposition of dangerous
3 drugs or dangerous devices shall be at all times during business hours open to inspection
4 by authorized officers of the law, and shall be preserved for at least three years from the
5 date of making. A current inventory shall be kept by every manufacturer, wholesaler,
6 pharmacy, medical device retailer, veterinary food-animal drug retailer, physician,
7 dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution, or establishment
8 holding a currently valid and unrevoked certificate, license, permit, registration, or
9 exemption under Division 2 (commencing with Section 1200) of the Health and Safety
10 Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and
11 Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

12 15. Section 4105(a) of the Code states that all records or other documentation
13 of the acquisition and disposition of dangerous drugs and dangerous devices by any entity
14 licensed by the board shall be retained on the licensed premises in a readily retrievable form.

15 16. Section 4110(a) of the Code states:

16 “No person shall conduct a pharmacy in the State of California, unless he or she
17 has obtained a license from the board. A license shall be required for each pharmacy
18 owned or operated by a specific person. A separate license shall be required for each of
19 the premises of any person operating a pharmacy in more than one location. The license
20 shall be renewed annually. The board may, by regulation, determine the circumstances
21 under which a license may be transferred.”

22 17. Section 4160 of the Code states:

23 (a) No person shall act as a wholesaler of any dangerous drug or dangerous device
24 unless he or she has obtained a license from the board. Upon approval by the board and
25 the payment of the required fee, the board shall issue a license to the applicant.

26 (b) No selling or distribution outlet, located in this state, of any out-of-state
27 manufacturer, that has not obtained a license from the board, that sells or distributes only
28 the dangerous drugs or the dangerous devices of that manufacturer, shall sell or distribute

1 any dangerous drug or dangerous device in this state without obtaining a wholesaler's
2 license from the board.

3 (c) A separate license shall be required for each place of business owned or
4 operated by a wholesaler. Each license shall be renewed annually and shall not be
5 transferable.

6 18. Section 4333 of the Code states, in pertinent, part that:

7 (a) All prescriptions filled by a pharmacy and all other records required by
8 Section 4081 shall be maintained on the premises and available for inspection by
9 authorized officers of the law for a period of at least three years. In cases where the
10 pharmacy discontinues business, these records shall e maintained in a board-licensed
11 facility for at least three years.

12 19. Title 16, section 1709(a) of the California Code of Regulations, states that
13 each permit to operate a pharmacy shall show the name and address of the pharmacy, the form of
14 ownership (individual, partnership or corporation) and the pharmacist-in-charge. Each pharmacy
15 shall, in its initial application on the annual renewal form, report the name of the pharmacist-in-
16 charge, the names of all owners and the names of the corporate officers (if a corporation). Any
17 changes in the pharmacist-in-charge, or the owners, or corporate officers shall be reported to the
18 Board within 30 days.

19 20. Title 16, California Code of Regulations, section 1718 states:

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

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

25 21. Title 16, section 1780 of the California Code of Regulations, states in
26 pertinent part:

27 (a) A wholesaler shall store dangerous drugs in a secured and lockable area.

28 (b) All wholesaler permits, fixtures and equipment therein shall be maintained in a

1 clean and orderly condition. Wholesale premises shall be well ventilated, free from
2 rodents and insects, and adequately lighted. Plumbing shall be in good repair.
3 Temperature and humidity monitoring shall be conducted to assure compliance with the
4 United States Pharmacopeia Standard (1990, 22nd Revision).

5 22. Section 118, subdivision (b), of the Code provides that the expiration of a
6 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the
7 period within which the license may be renewed, restored, reissued or reinstated.

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

12 24. DANGEROUS DRUG

13 A. Viagra, brand name for sildenafil citrate, for the treatment of erectile
14 dysfunction, is categorized as a dangerous drug pursuant to section 4022 of the Code.

15
16 OWL REXALL DRUG, MAHER HALIM KALDAS, NAGWA L. KALDAS
17 AND OWL HOMECARE PHARMACY

18 FIRST CAUSE FOR DISCIPLINE

19 (Acting As a Wholesaler Without Proper License)

20 25. Respondents Rexall, Kaldas, Nagwa and Homecare are subject to
21 disciplinary action under sections 4300, 4301(f), (j) and (o) on the grounds of unprofessional
22 conduct for violating section 4160(a) of the Code as defined in section 4043 of the Code in that
23 Respondents were acting as wholesalers without a proper license. The circumstances are as
24 follows:

25 A. From about April 1998 to about March 2001, Respondents purchased large
26 quantities of Viagra, 100mg., under Respondent Homecare's account from wholesalers.
27 The drugs were then transferred to Respondent Minaceuticals for resale to other
28 pharmacies and physicians.

1 B. From about April 25, 2000 to about February 1, 2001, Respondent Homecare
2 purchased and received Viagra, 100mg., in amounts totaling approximately
3 \$3,142,390.74 from Respondent Bergen.

4 C. From about April 8, 1998 to about March 7, 2001, Respondents Homecare and
5 Rexall purchased and received Viagra, 100mg., in amounts totaling approximately
6 \$26,593,852.40 from Bindley.

7 D. From about January 1, 2000 to about January 17, 2001, Respondents provided
8 a document that indicated that they sold Viagra, 100mg., in amounts totaling
9 approximately \$3,558,558.56 to a Dr. Sung. These drugs were sold through
10 Minaceuticals, who purchased all drugs only through Homecare.

11 E. On January 26, 2000 and on January 31, 2000, Respondents sold Viagra,
12 100mg., in amounts totaling approximately \$75,022 to A. A. Medical.

13 F. On January 24, 2000, Respondents sold Viagra, 100mg., in amounts totaling
14 approximately \$206,354 to Greenfield Pharmacy.

15 G. From about January 4, 1999 to about December 16, 1999, Respondents sold to
16 Viagra, 100mg. in large quantities, to other licensees and physicians as follows:

<u>PURCHASER</u>	<u>AMOUNT PURCHASED</u>
A. A. Medical - Dr. Sung	\$ 3,459,048.56
Alex Wholesale	559,117.50
Dr. Lin	896,476.00
Empire Pharmaceuticals	740,461.50
Greenfield Pharmaceutical	19,207,773.70
Dr. Vu Le	485,428.00
TOTAL:	\$25,348.094.26

23 H. In or about September, 1999, Respondents Homecare and Kaldas participated
24 in an agreement with Respondents Soliman and Minaceuticals to transfer large amounts
25 of Viagra, from Respondent Homecare to Respondent Minaceuticals for resale.

26 I. In or about March, 1999, Respondents Rexall, Kaldas and Nagwa participated
27 in an agreement with Bindley to purchase large quantities of Viagra for resale to phar-
28 maceutical wholesalers and physicians, as more fully set forth in subparagraph G, above.

1 ALBERT B. SOLIMAN AND MINACEUTICALS WHOLESAL

2 FOURTH CAUSE FOR DISCIPLINE

3 (Unprofessional Conduct)

4 28. Respondents Soliman and Minaceuticals are subject to disciplinary action
5 under sections 4300 and 4301(o) on the grounds of unprofessional conduct for failing to maintain
6 records of acquisition and disposition of dangerous drugs and for failing to maintain the premises
7 in a clean and sanitary condition. The circumstances are as follows:

8 A. On March 7, 2001, an inspector for the Board conducted an inspection of
9 records for Respondent Minaceuticals. The inspector found that Respondent
10 Minaceuticals was a dusty, unswept warehouse that was empty except for some boxes of
11 vials, which is a violation of Title 16, California Code of Regulations 1780(b).

12 B. On March 7, 2001, the inspection of Minaceuticals' records revealed only
13 invoices sales to Dr. Sung. Respondent Soliman confirmed that all records were
14 maintained at Respondent Rexall, which is a violation of Code sections 4081, 4105 and
15 4333.

16
17 OWL REXALL PHARMACY, OWL HOMECARE PHARMACY,
18 MAHER HALIM KALDAS, NAGWA L. KALDAS, MINACEUTICALS WHOLESAL
19 AND ALBERT B. SOLIMAN

20 FIFTH CAUSE FOR DISCIPLINE

21 (Failure to Notify Board of Change in Ownership)

22 29. Respondents Rexall, Homecare, Kaldas, Nagwa, Minaceuticals and
23 Soliman are subject to disciplinary action under sections 4300 and 4301(o) on the grounds of
24 unprofessional conduct for failing to notify the Board of change in ownership or beneficial
25 interest. The circumstances are as follows:

26 A. On or about March 6, 2001, during a follow up inspection of Respondent
27 Homecare, Respondent Kaldas, by his own admission, revealed to the inspector that
28 Respondents Kaldas and Soliman became partners of Respondents Rexall and Homecare
in March 1999. A check of the Board's records, showed that applications for the

1 changes of ownership for Respondents Rexall and Homecare were not received by the
2 Board until October, 2000. Respondents violated section 4110(a), 4201(a) and (j) of the
3 Code and Title 16, California Code of Regulations, section 1709, in that they failed to
4 notify the Board of the change within 30 days as required.

5
6 BINDLEY WESTERN DRUG COMPANY AND BERGEN BRUNSWIG

7 SIXTH CAUSE FOR DISCIPLINE

8 (Acted as A Wholesaler Without a License)

9 30. Respondent Bergen is subject to disciplinary action under sections 4300
10 and 4301(o) on the grounds of unprofessional conduct in that Respondent furnished large
11 quantities of Viagra to Respondents Rexall and Homecare for resale rather than patient
12 prescriptions, as more fully set forth in paragraph 25, subparagraphs B and C, above.

13
14 OWL REXALL DRUG, MAHER HALIM KALDAS AND NAGWA L. KALDAS

15 SEVENTH CAUSE FOR DISCIPLINE

16 (Furnish Large Quantities of a Dangerous Drug)

17 31. Respondents Rexall, Kaldas and Nagwa are subject to disciplinary action
18 under section 4300 and 4301(o) of the Code for violating section 4119.5 of the Code in that
19 Respondents furnished dangerous drugs to a prescriber in quantities in excess of a reasonable
20 quantity for prescriber office use, as follows.

21 A. From about January 1, 2000 to about January 17, 2001, Respondents, by their
22 own admission, sold Viagra, 100mg., in amounts totaling approximately \$3,558,558.56 to
23 a Dr. Sung.

24 B. From about January 4, 1999 to about March 13, 1999, Respondents sold
25 Viagra, 100mg., in amounts totaling approximately \$896,476 to Dr. Lin.

26 C. From about October 28, 1999 to about December 16, 1999, Respondents sold
27 Viagra, 100mg., in amounts totaling approximately \$485,428 to Dr. Vu Le.

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

8. Ordering Owl Rexall Drug, Nagwa L. Kaldas, Maher Halim Kaldas, Owl Homecare Pharmacy, Minaceuticals Wholesale, Albert B. Soliman and Bergen Brunswig Drug Co. to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 6/26/02

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

03583110-LA2002AD0117
CML (04/25/2002)