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

In the Matter of the First Amended Accusation Against: PARK PHARMACY DENNIS ELIAS SAADEH Co-Owner/Pharmacist-in-Charge TINA MARIE SULIC-SAADEH Co-Owner 250 East Yale Loop, Suite C Irvine, CA 92064 Original Pharmacy Permit No. PHY 41748 DENNIS ELIAS SAADEH 653 Via Faisan San Clemente, CA 92673 Pharmacist License No. RPH 41232 Respondents.	Case No. 2924 OAH No. L-2007040275

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 August 13, 2008.

It is so ORDERED July 14, 2008.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____
KENNETH H. SCHELL
Board President

EDMUND G. BROWN JR., Attorney General
of the State of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General
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Attorneys for Complainant

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In the Matter of the First Amended Accusation Against: PARK PHARMACY DENNIS ELIAS SAADEH Co-Owner/Pharmacist-in-Charge TINA MARIE SULIC-SAADEH Co-Owner 250 East Yale Loop, Suite C Irvine, CA 92064 Original Pharmacy Permit No. PHY 41748 DENNIS ELIAS SAADEH 653 Via Faisan San Clemente, CA 92673 Pharmacist License No. RPH 41232 Respondents.	Case No. 2924 OAH No. L-2007040275 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy. She brought this action solely in her official capacity and is represented in this matter

by Edmund G. Brown Jr., Attorney General of the State of California, by Rita M. Lane, Deputy Attorney General.

2. Respondents Park Pharmacy and Dennis Elias Saadeh are represented in this proceeding by attorney Herbert L. Weinberg, whose address is 1800 Century Park East, 8th Floor, Los Angeles, CA 90067.

3. On or about August 1, 1996, the Board of Pharmacy issued Original Pharmacy Permit No. PHY 41748 to Dennis E. Saadeh and Tina M. Sulic-Saadeh to do business as Park Pharmacy (Respondent Park Pharmacy). On or about April 7, 2002, a Change of Permit was filed with the Board changing the name of the corporation to South Coast Specialty Compound with Dennis Saadeh as the CEO and President and Tina Sulic-Saadeh as the Secretary and Treasurer. From August 1, 1996 through June 14, 1997, Tina M. Sulic-Saadeh was the Pharmacist-in-Charge. From June 14, 1997 through September 4, 2007, Dennis Saadeh was and is the Pharmacist-in-Charge. The Original Pharmacy permit was in full force and effect at all times relevant to the charges brought herein and will expire on August 1, 2008, unless renewed.

4. On or about September 26, 1987, the Board of Pharmacy issued Pharmacist License No. RPH 41232 to Dennis Elias Saadeh (Respondent Saadeh). The Pharmacist License was in full force and effect at all times relevant to the charges brought in Accusation No. 2924 and will expire on August 31, 2009, unless renewed.

JURISDICTION

5. First Amended Accusation No. 2924 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondents on December 21, 2007. Respondents timely filed their Notices of Defense contesting the Accusation. A copy of First Amended Accusation No. 2924 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondents have carefully read, fully discussed with counsel, and understand the charges and allegations in First Amended Accusation No. 2924. Respondents

have also carefully read, fully discussed with counsel, and understand the effects of this Stipulated Settlement and Disciplinary Order.

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

8. Respondents voluntarily, knowingly, and intelligently waive and give up each and every right set forth above.

CULPABILITY

9. Respondents admit the truth of each and every charge and allegation in First Amended Accusation No. 2924.

10. Respondent Saadeh agrees that his Pharmacist License and Original Pharmacy Permit are subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondents understand and agree that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondents or their counsel. By signing the stipulation, Respondents understand and agree that they may not withdraw their agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 41232 issued to Respondent Dennis Elias Saadeh is revoked. However, the revocation is stayed and Respondent Saadeh is placed on probation for five (5) years on the following terms and conditions.

IT IS HEREBY FURTHER ORDERED that Original Pharmacy Permit No. PHY 41748 issued to Dennis Elias Saadeh is revoked. However, the revocation is stayed and the Original Pharmacy Permit is placed on probation for five (5) years on the following terms and conditions.

1. **Suspension.** As part of probation, Respondent Dennis Elias Saadeh is suspended from the practice of pharmacy for a period of 30 days. Respondent Saadeh is given credit for completion of 30 days suspension already served.

2. **Obey All Laws.** Respondents Saadeh and Park Pharmacy shall obey all state and federal laws and regulations substantially related to or governing the practice of pharmacy.

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

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime

- discipline, citation, or other administrative action filed by any state and federal agency which involves Respondent's Pharmacist license or Original Pharmacy Permit or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distribution or billing or charging for any drug, device or controlled substance.

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

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

5. **Cooperation with Board Staff.** Respondents Saadeh and Park Pharmacy shall cooperate with the Board's inspectional program and in the Board's monitoring and investigation of Respondents' compliance with the terms and conditions of their probation. Failure to comply shall be considered a violation of probation.

6. **Continuing Education.** Respondent Saadeh shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board.

7. **Notice to Employers.** Respondent Saadeh shall notify all present and prospective employers of the decision in Case Number 2924 and the terms, conditions and restrictions imposed on Respondent by the decision. Within 30 days of the effective date of this decision, and within 15 days of Respondent undertaking new employment, Respondent shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in writing acknowledging the employer has read the decision in Case Number 2924.

If Respondent Saadeh works for or is employed by or through a pharmacy employment service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at every pharmacy of the and terms conditions of the decision in Case Number 2924 in advance of the Respondent commencing work at each pharmacy.

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

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

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

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

10. **Reimbursement of Board Costs as to Dennis Saadeh.** Respondent Saadeh shall pay to the Board its costs of investigation and prosecution in the amount of $7,000.00. Respondent Saadeh shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

The filing of bankruptcy by Respondent Saadeh shall not relieve Respondent of his responsibility to reimburse the Board its costs of investigation and prosecution.

11. **Reimbursement of Board Costs as to Park Pharmacy.** Respondent Park Pharmacy shall pay to the Board its costs of investigation and prosecution in the amount of $3,387.00. Respondent Park Pharmacy shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

The filing of bankruptcy by Respondent Saadeh or Park Pharmacy shall not relieve Respondent of his responsibility to reimburse the Board its costs of investigation and prosecution.

12. **Probation Monitoring Costs.** Respondents Saadeh and Park Pharmacy shall pay the costs associated with probation monitoring as determined by the Board each and every year of probation. Such costs shall be payable to the Board at the end of each year of probation. Failure to pay such costs shall be considered a violation of probation.

13. **Status of License.** Respondents Saadeh and Park Pharmacy shall, at all times while on probation, maintain an active current license with the Board, including any period during which suspension or probation is tolled.

If Respondents' licenses expire or are canceled by operation of law or otherwise, upon renewal or reapplication, Respondents' licenses shall be subject to all terms and conditions of this probation not previously satisfied.

14. **License Surrender while on Probation/Suspension.** Following the effective date of this decision, should Respondent Saadeh cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender his license to the Board for surrender. The Board shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, Respondent will no longer be subject to the terms and conditions of probation.

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Upon acceptance of the surrender, Respondent shall relinquish his pocket license to the Board within 10 days of notification by the Board that the surrender is accepted. Respondent may not reapply for any license from the Board for three years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board.

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

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

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

Respondent shall work at least 40 hours in each calendar month as a pharmacist and at least an average of 80 hours per month in any six consecutive months. Failure to do so will be a violation of probation. If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of his good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition.

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

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

18. **Completion of Probation.** Upon successful completion of probation, Respondent's licenses will be fully restored.

19. **Rehabilitation Program - Pharmacists Recovery Program (PRP).** Within 30 days of the effective date of this decision, Respondent Saadeh shall contact the Pharmacists Recovery Program for evaluation and shall successfully participate in and complete the treatment contract and any subsequent addendums as recommended and provided by the PRP and as approved by the Board. The costs for PRP participation shall be borne by Respondent Saadeh.

If Respondent Saadeh is currently enrolled in the PRP, said participation is now mandatory and is no longer considered a self-referral under Business and Professions Code section 4363, as of the effective date of this decision. Respondent shall successfully participate in and complete his current contract and any subsequent addendums with the PRP. Probation shall be automatically extended until Respondent Saadeh successfully completes his treatment contract. Any person terminated from the program shall be automatically suspended upon notice by the board. Respondent may not resume the practice of pharmacy until notified by the Board in writing. The Board shall retain jurisdiction to institute action to terminate probation for any violation of this term.

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

21. **Abstain from Drugs and Alcohol Use.** Respondent Saadeh shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the Board, Respondent Saadeh shall provide documentation from the licensed practitioner that the prescription was legitimately issued and is a necessary part of the treatment of Respondent Saadeh.

22. **Supervised Practice.** Respondent Saadeh shall practice only under the supervision of a pharmacist not on probation with the Board. Respondent Saadeh shall not practice until the supervisor is approved by the Board. The supervision shall be, as required by the Board, either:

Continuous - 75% to 100% of a work week
Substantial - At least 50% of a work week
Partial - At least 25% of a work week
Daily Review - Supervisor's review of probationer's daily activities within 24 hours

Within 30 days of the effective date of this decision, Respondent Saadeh shall have his supervisor submit notification to the Board in writing stating the supervisor has read the decision in case number 2924 and is familiar with the level of supervision as determined by the Board.

If Respondent Saadeh changes employment, Respondent Saadeh shall have his new supervisor, within15 days after employment commences, submit notification to the Board in writing stating the direct supervisor and pharmacist-in-charge have read the decision in case number 2924 and is familiar with the level of supervision as determined by the Board.

Within 10, days of leaving employment, Respondent Saadeh shall notify the Board in writing.

23. **No New or Additional Ownership of Premises.** Respondent Saadeh shall not acquire any new ownership, legal or beneficial interest nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any additional business, firm, partnership, or corporation licensed by the Board. If Respondent Saadeh currently owns or has any legal or beneficial interest in, or serves as a manager, administrator, member, officer, director, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the Board, Respondent Saadeh may continue to serve in such capacity or hold that interest, but only to the extent of that position or interest as of the effective date of this decision.

ACCEPTANCE

I, Dennis Elias Saadeh, on my own behalf and on behalf of Park Pharmacy, have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Herbert L. Weinberg. I understand the stipulation and the effect it will have on my Original Pharmacist License and the Original Pharmacy Permit issued to Park Pharmacy. I enter into this Stipulated Settlement and Order on my own behalf and on behalf of Park Pharmacy voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 3-12-08

DENNIS ELIAS SAADEH
Individually and on behalf of
PARK PHARMACY as Owner
Respondents

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

DATED: 3/18/08

HERBERT L. WEINBERG
Attorney for Respondents

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: 4/9/08

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

LINDA K. SCHNEIDER
Supervising Deputy Attorney General

Rita M. Lane
RITA M. LANE
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SD2005701199
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Exhibit A

First Amended Accusation No. 2924

EDMUND G. BROWN JR., Attorney General
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Complainant alleges:

PARTIES

1. Virginia Herold (Complainant) brings this First Amended Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

2. On or about February 18, 2007, Accusation No. 2924 was filed against Respondent Dennis Elias Saadeh. This First Amended Accusation supersedes and replaces the former Accusation that was filed on February 18, 2007 in this case.

3. On or about August 1, 1996, the Board of Pharmacy issued Original Pharmacy Permit No. PHY 41748 to Dennis E. Saadeh and Tina M. Sulic-Saadeh to do business as Park Pharmacy (Respondent Park Pharmacy). On or about April 7, 2002, a Change of Permit was filed with the Board changing the name of the corporation to South Coast Specialty Compound with Dennis Saadeh as the CEO and President and Tina Sulic-Saadeh as the Secretary and Treasurer. From August 1, 1996 through June 14, 1997, Tina M. Sulic-Saadeh was the Pharmacist-in-Charge. From June 14, 1997 through September 4, 2007, Dennis Saadeh was and is the Pharmacist-in-Charge. The Original Pharmacy permit was in full force and effect at all times relevant to the charges brought herein and will expire on August 1, 2008, unless renewed.

4. On or about September 26, 1987, the Board of Pharmacy issued Pharmacist License Number RPH 41232 to Dennis Elias Saadeh, RPH (Respondent Saadeh). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2008, unless renewed. At all times relevant herein, Respondent Saadeh was and is the Pharmacist-in-Charge (PIC) at Respondent Park Pharmacy.

5. On or about August 24, 1987, the Board of Pharmacy issued Pharmacist License Number RPH 41234 to Tina Marie Sulic-Saadeh, RPH (Respondent Sulic-Saadeh). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2009, unless renewed.

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JURISDICTION

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

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

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

9. Section 490 states:

> A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

10. Section 493 states:

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

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11. Section 4022 of the Code states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

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

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

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

12. Section 4059 states:

(a) A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.

13. Section 4060 states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, physician, podiatrist, dentist, veterinarian, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, or a physician assistant to order his or her own stock of dangerous drugs and devices.

14. Section 4113(b) provides that the pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

15. Section 4156 states:

A pharmacy corporation shall not do, or fail to do, any act where doing or failing to do the act would constitute unprofessional conduct under any statute or regulation. In the conduct of its practice, a pharmacy corporation shall observe and be bound by the laws and regulations that apply to a person licensed under this chapter.

16. Section 4301 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.

. . . .

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

. . . .

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

(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

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

. . . .

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(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 this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board.

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

17. California Code of Regulations, title 16, section 1715.6 states that an owner shall report to the Board within thirty (30) days of discovery of any loss of the controlled substances, including their amounts and strengths.

18. California Code of Regulations, title 16, section 1718, states:

"Current Inventory" as used in Sections 4081 and 4332 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332.

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

19. Health and Safety Code section 11103 provides that the theft or loss of any substance regulated pursuant to Section 11100 discovered by any permittee or any person regulated by the provisions of this chapter shall be reported in writing to the Department of Justice within three (3) days after the discovery.

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

21. Health and Safety Code section 11171 provides that no person shall prescribe, administer, or furnish a controlled substance except under the conditions and in the manner provided by the state Uniform Controlled Substances Act, Health and Safety Code section 11000 et seq.

22. Health and Safety Code section 11173(a) provides, in pertinent part, that no person shall obtain, or attempt to obtain controlled substances by fraud, deceit, misrepresentation, or subterfuge.

23. Board Regulation 1770 provides that a crime shall be considered substantially related to the qualifications, functions or duties of a licensee if to a substantial

degree it evidences present or potential unfitness of a licensee to perform the functions authorized by his or her license in a manner consistent with the public health, safety, or welfare.

Drugs

24. At all times material herein, Hydrocodone was and is the generic name for the trade name drug Vicodin, which is designated by Health and Safety Code section 11056(e)(4) as a narcotic drug and a Schedule III controlled substance, and by Business and Professions Code section 4022 as a dangerous drug. Hydrocodone is used as a narcotic analgesic in the relief of pain.

25. At all times material herein, Alprazolam was and is the generic name for the trade name drug Xanax, which is designated by Health and Safety Code section 11057(d)(1) as a Schedule IV controlled substance, and by Business and Professions Code section 4022 as a dangerous drug. Alprazolam is used in the treatment of anxiety.

26. At all times material herein, Methylphenidate was and is the generic name for trade name drugs such as Ritalin and Concerta. Methylphenidate is designated as a Schedule II Controlled Substance according to Health and Safety Code section 11055(d)(6) and is classified as a dangerous drug according to Business and Professions Code section 4022. Methylphenidate is used in the treatment of Attention Deficit Hyperactivity disorders.

27. At all times material herein, Valium was and is a trade name for the generic drug Diazepam, which is designated by Health and Safety Code section 11057(d)(3) as a non-narcotic drug and a Schedule IV controlled substance, and by Business and Professions Code section 4022 as a dangerous drug. Valium is used in the management of anxiety.

28. At all times material herein, Elavil was and is the trade name for the generic drug Amitriptyline, which is a dangerous drug within the meaning of Business and Professions Code section 4022. Elavil is used for the treatment of depression.

FACTS

29. Complainant is informed and believes, and thereon alleges, that, Respondent Saadeh, while the pharmacist-in-charge (PIC) and owner of Park Pharmacy, illegally took controlled substances and dangerous drugs from Park Pharmacy from the time period of

2003 through 2005. On or about October 13, 2005, an inspector for the Board inspected Park Pharmacy and confirmed that Respondent Saadeh was missing controlled substances and dangerous drugs from his inventory. Respondent Saadeh had not completed a DEA 106 form and did not know the exact quantity of the medications that he had taken from Park Pharmacy for his own personal use. During the inspection, the inspector found the following controlled substances and dangerous drugs had been diverted or there was a discrepancy in the inventory amount by Respondent Saadeh from Park Pharmacy during the time period of 2003 through 2005:

Drug	**Amount**
Hydrocodone	Loss of 651 tablets
Alprazolam	Showed discrepancy of an excess of 1698 tablets
Methylphenidate	Showed discrepancy of an excess of 149 tablets

To date, Respondent Saadeh has not filed any loss report with the Board, Federal Drug Enforcement or Department of Justice as required by law.

30. On or about May 12, 2004, while Respondent Saadeh was the owner and PIC at Park Pharmacy, Respondent Saadeh was involved in a single car accident wherein his vehicle hit the center divide and his car sustained major front-end damage and both airbags were deployed. Respondent Saadeh told the responding officer that he was sleepy and had taken Vicodin, Valium and Elavil. Respondent Saadeh told the officer that he did not have prescriptions for the drugs. Respondent Saadeh failed a field sobriety test and was arrested for being under the influence of drugs. A search of Respondent Saadeh's car revealed 3.56 grams of Methylphenidate, two tablets of Alprazolam and 2 capsules of Hydrocodone. Respondent Saadeh's subsequent drug screen revealed the presence of opiates in Respondent Saadeh's system.

31. On or about September 17, 2004, in the Superior Court of California, County of Orange, in a case entitled *People v. Dennis Saadeh*, Case No. 04HF0870, Respondent Saadeh was convicted on his plea of guilty of violating Health and Safety Code section 11350(a) (Unlawful Possession of Hydrocodone), a felony; Health and Safety Code section 11377(a)

(Possession of Methylphenidate), a felony; Health and Safety Code section 11375(b)(2) (Possession of Alprazolam), a misdemeanor; and Vehicle Code section 23152(a) (Driving While Under the Influence of Drugs), a misdemeanor. Respondent Saadeh was sentenced as follows:

a. Respondent Saadeh was placed on three years formal probation on the terms and conditions that he serve 90 days in the Orange County Jail with credit for time served of 2 days; his 90 days jail to be served as 90 days in a residential drug program; he attend and complete a 3 month Level 1 First Offender Alcohol Program; pay a fine of $390; pay a restitution fee of $200; pay a $50 controlled substance lab fee; pay a $50 Alcohol abuse education fee; pay a $37 DUI Lab/Blood Alcohol fee; pay a $20 Security fee; register pursuant to Health and Safety Code section 11590; use no unauthorized drugs; and submit to drug testing.

CHARGES AND ALLEGATIONS

RESPONDENT DENNIS ELIAS SAADEH, RPH

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime Substantially Related to Pharmacy)

32. Respondent Saadeh is subject to disciplinary action under section 4301 for unprofessional conduct in that he was convicted of a crime substantially related to the qualifications, functions and duties of a licensee under this chapter in violation of sections 490 and 4301(l) and as set forth above in paragraphs 30 and 31, which are realleged and incorporated herein by reference.

SECOND CAUSE FOR DISCIPLINE

(Conviction of More Than one Misdemeanor or Felony Involving the Use, Consumption or Self-Administration of any Dangerous Drug)

33. Respondent Saadeh is subject to disciplinary action under section 4301(k) for unprofessional conduct in that Respondent Saadeh was convicted of two misdemeanors and two felonies involving the use, consumption and self-administration of dangerous drugs as set forth in paragraphs 30 and 31 above, which are realleged and incorporated herein by reference.

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THIRD CAUSE FOR DISCIPLINE

(Furnishing Dangerous Drugs To Himself Without a Prescription)

34. Respondent Saadeh is subject to disciplinary action under section 4301(o) for unprofessional conduct in that he furnished to himself dangerous drugs, namely Elavil, Vicodin and Valium, without a prescription, in violation of section 4059(a) as set forth in paragraph 30 above, which is realleged and incorporated herein by reference.

FOURTH CAUSE FOR DISCIPLINE

(No Person Shall Prescribe, Administer or Furnishing a Controlled Substance for Himself)

35. Respondent Saadeh is subject to disciplinary action under section 4301(o) for unprofessional conduct in that he administered and furnished to himself Vicodin, a Schedule III controlled substance, and Valium, a Schedule IV controlled substance in violation of Health and Safety Code section 11170 as set forth in paragraph 30 above, which is realleged and incorporated herein by reference.

FIFTH CAUSE FOR DISCIPLINE

(Administering and Furnishing Controlled Substances in Violation of State Law)

36. Respondent Saadeh is subject to disciplinary action under section 4301(j) for unprofessional conduct, in that he administered and furnished the controlled substances Vicodin and Valium to himself in violation of Health and Safety Code section 11171 as set forth in paragraph 30 above, which is realleged and incorporated herein by reference.

SIXTH CAUSE FOR DISCIPLINE

(Possession of a Controlled Substance Without a Prescription)

37. Respondent Saadeh is subject to disciplinary action under section 4301(o) for unprofessional conduct in that he possessed the controlled substances, Hydrocodone, Alprazolam and Methylphenidate, without a prescription in violation of section 4060 as set forth in paragraphs 29 and 30 above, which are realleged and incorporated herein by reference.

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SEVENTH CAUSE FOR DISCIPLINE

(Obtaining Controlled Substances by Fraud)

38. Respondent Saadeh is subject to disciplinary action under Health and Safety Code section 11173(a) for obtaining controlled substances by fraud as set forth in paragraph 29 above, which is realleged and incorporated herein by reference.

EIGHTH CAUSE FOR DISCIPLINE

(Self-Administration of A Controlled Substance)

39. Respondent Saadeh is subject to disciplinary action under section 4301(h) for unprofessional conduct in that he administered to himself controlled substances as set forth in paragraph 30 above, which is realleged and incorporated herein by reference.

NINTH CAUSE FOR DISCIPLINE

(Acts Involving Moral Turpitude - Acquiring Controlled Substances By Fraud)

40. Respondent Saadeh is subject to disciplinary action under section 4301(f) for unprofessional conduct in that Respondent Saadeh committed acts involving moral turpitude and dishonestly when he illegally acquired controlled substances and dangerous drugs from his pharmacy for self administration as set forth in paragraphs 29 and 30 above, which are realleged and incorporated herein by reference.

TENTH CAUSE FOR DISCIPLINE

(Violating State Statutes re Controlled Substances)

41. Respondent Saadeh's license is subject to discipline for unprofessional conduct under section 4301(j) for violating statutes of this state regulating controlled substances and dangerous drugs whereby Respondent Saadeh furnished and administered controlled substances and dangerous drugs as set forth in paragraphs 29 and 30 above, which are realleged and incorporated herein by reference.

ELEVENTH CAUSE FOR DISCIPLINE

(Violation of Provisions of the Pharmacy Act)

42. Respondent Saadeh's license is subject to discipline for unprofessional conduct under section 4301(o) for violating the provisions of this chapter and applicable federal

and state laws and regulations governing pharmacy when Respondent Saadeh illegally furnished and administered to himself controlled substances and dangerous drugs as set forth in paragraphs 29 and 30 above, which are realleged and incorporated herein by reference.

TWELFTH CAUSE FOR DISCIPLINE

(Failure to Report Drug Loss)

43. Respondent Saadeh is subject to disciplinary action under California Code of Regulations, title 16, section 1715.6 in that he did not report the losses of controlled substances he created when he illegally took controlled substances out of the pharmacy for his personal use as set forth in paragraphs 29 and 30 above, which are realleged and incorporated herein by reference.

THIRTEENTH CAUSE FOR DISCIPLINE

(Failure to Report Theft or Loss of Controlled Substances)

44. Respondent Saadeh is subject to disciplinary action under Health and Safety Code section 11103 in that he did not report the controlled substances he illegally took from his pharmacy for personal use to the Department of Justice within the required three days as set forth in paragraph 29 above, which is realleged and incorporated herein by reference.

FOURTEENTH CAUSE FOR DISCIPLINE

(Failure to Keep Current Inventory on Dangerous Drugs as Owner and Pharmacist-in-Charge)

45. Respondent Saadeh is subject to disciplinary action under California Code of Regulations, title 16, section 1718 in that he did not have a complete accounting for all the dangerous drugs at Park Pharmacy where he was the owner and the PIC as set forth in paragraph 29 above, which is realleged and incorporated herein by reference.

FIFTEENTH CAUSE FOR DISCIPLINE

(Failure to Meet Responsibilities of Pharmacist-in-Charge)

46. Respondent Saadeh is subject to disciplinary action under section 4113(b) in that as owner and PIC, he violated state and federal laws and regulations governing the practice of pharmacy as set forth in paragraph 29 above, which is realleged and incorporated herein by reference.

SIXTEENTH CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

47. Respondent Saadeh is subject to disciplinary action for unprofessional conduct under section 4301(p) for actions or conduct that would have warranted denial of a license as specified in paragraphs 29 through 31 above, which are realleged and incorporated herein by reference.

RESPONDENT TINA MARIE SULIC-SAADEH

FIRST CAUSE FOR DISCIPLINE

(Failure to Report Drug Loss)

48. Respondent Sulic-Saadeh is subject to disciplinary action under California Code of Regulations, title 16, section 1715.6 in that she did not report the losses of controlled substances that were created when her husband, Respondent Saadeh, illegally took controlled substances out of their pharmacy for his personal use as set forth in paragraphs 29 and 30 above, which are realleged and incorporated herein by reference.

SECOND CAUSE FOR DISCIPLINE

(Failure to Report Theft or Loss of Controlled Substances)

49. Respondent Sulic-Saadeh is subject to disciplinary action under Health and Safety Code section 11103 in that she did not report the controlled substances Respondent Saadeh illegally took from their pharmacy for his personal use to the Department of Justice within the required three days as set forth in paragraph 29 above, which is realleged and incorporated herein by reference.

THIRD CAUSE FOR DISCIPLINE

(Failure to Keep Current Inventory on Dangerous Drugs as Owner)

50. Respondent Sulic-Saadeh is subject to disciplinary action under California Code of Regulations, title 16, section 1718 in that she did not have a complete accounting for all the dangerous drugs at Park Pharmacy where she was the co-owner as set forth in paragraph 29 above, which is realleged and incorporated herein by reference.

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FOURTH CAUSE FOR DISCIPLINE

(Assisting In or Abetting the Violation of Any Provision of Federal and State Law and/or Regulations Governing Pharmacy)

51. Respondent Sulic-Saadeh is subject to disciplinary action under section 4301(o) for unprofessional conduct in that she assisted in and/or abetted the violation of federal and state laws and/or regulations governing pharmacy by allowing Respondent Saadeh to furnish to himself dangerous drugs from their pharmacy, without a prescription, in violation of sections 4059(a) and 4060 and Health and Safety Code sections 11170, 11171, and 11173(a) as set forth in paragraphs 29 and 30 above, which are realleged and incorporated herein by reference.

RESPONDENT PARK PHARMACY

CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

52. Respondent Park Pharmacy is subject to disciplinary action under section 4156 for unprofessional conduct based on the acts and omissions alleged above in paragraphs 29, 30, 43, 44, 45, 48, 49 and 50 which are realleged and incorporated herein by reference.

PRAYER

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

A. Revoking or suspending Original Pharmacy Permit No. PHY 41748, issued to Park Pharmacy, Dennis Saadah, Co-owner/Pharmacist-in-Charge, and Tina Marie Sulic-Saadeh, co-owner;

B. Revoking or suspending Pharmacist License Number RPH 41232 issued to Dennis Elias Saadeh, RPH;

C. Revoking or suspending Pharmacist License No. RPH 41234, issued to Tina Marie Sulic-Saadeh, RPH;

D. Ordering Park Pharmacy, and/or Dennis Saadeh, RPH, individually, and/or Tina Marie Sulic-Saadeh, individually, to pay the Board of Pharmacy the reasonable costs of the

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investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED: 12/19/07

VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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