

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

In the Matter of the Accusation Against:

Case No. 3084

**JAE YOUNG PARK, doing business as  
FORUM DRUG**

3307 W. Pico Blvd.  
Los Angeles, CA 90019-4530

Pharmacy Permit No. PHY 44525

and

**JAE YOUNG PARK**  
1501 Emerald Lane  
Diamond Bar, CA 91765

Pharmacist License No. RPH 44773

Respondent.

**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 May 26, 2010.

It is so ORDERED on April 26, 2010.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

*Benneth H. Schell*

---

KENNETH H. SCHELL  
Board President

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
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*Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 3084

12 **JAE YOUNG PARK, doing business as**  
13 **FORUM DRUG**  
3307 W Pico Blvd  
14 Los Angeles, CA 90019-4530  
**JAE Y. PARK, Pharmacist-in-Charge**

OAH No. L-2009070148

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15 **Original Pharmacy Permit No. PHY 44525**

16 and

17 **JAE YOUNG PARK, also known as**  
18 **JAE Y. PARK**  
1501 Emerald Lane  
19 Diamond Bar, CA 91765

20 **Original Pharmacist License No. RPH**  
21 **44773**

22 Respondents.

23  
24 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
25 entitled proceedings that the following matters are true:

26 PARTIES

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

1 Edmund G. Brown Jr., Attorney General of the State of California, by Kevin J. Rigley, Deputy  
2 Attorney General.

3 2. Respondents Jae Y. Park, doing business as Forum Drug (Respondent Park/Forum  
4 Drug) and Jae Young Park, also known as Jae Y. Park (Respondent Park) are represented in these  
5 proceedings by attorney Herbert L. Weinberg, whose address is:

6 1800 Century Park East, 8th Floor  
7 Los Angeles, CA 90067

8 3. On or about January 13, 2000, the Board issued Original Pharmacy Permit No. 44525  
9 (pharmacy permit) to Respondent Forum Drug/Park, with Respondent Park as Pharmacist-in-  
10 Charge. The pharmacy permit was in full force and effect at all times relevant to the charges  
11 brought in Accusation No. 3084. The pharmacy permit expired on January 1, 2009 and was not  
12 renewed.

13 4. On or about August 22, 1991, the Board issued Original Pharmacist License No.  
14 44773 (pharmacist license) to Respondent Park. The pharmacist license was in full force and  
15 effect at all times relevant to the charges brought in Accusation No. 3084 and will expire on  
16 February 28, 2011, unless renewed.

17 JURISDICTION

18 5. Accusation No. 3084 was filed before the Board on December 1, 2008 and is  
19 currently pending against Respondents. The Accusation and all other statutorily required  
20 documents were properly served on Respondents on January 7, 2009. Respondents timely filed  
21 their Notices of Defense contesting the Accusation. A copy of Accusation No. 3084 is attached  
22 as exhibit A and incorporated herein by reference.

23 ADVISEMENT AND WAIVERS

24 6. Respondents have carefully read, fully discussed with counsel, and understand the  
25 charges and allegations in Accusation No. 3084. Respondents have also carefully read, fully  
26 discussed with counsel, and understand the effects of this Stipulated Settlement and Disciplinary  
27 Order

28

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

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

10 CULPABILITY

11 9. Respondents admit the truth of each and every charge and allegation in Accusation  
12 No. 3084.

13 10. Respondent Forum Drug/Park agrees that his pharmacy permit is subject to discipline  
14 and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary  
15 Order below.

16 11. Respondent Park agrees that his pharmacist license is subject to discipline and he  
17 agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order  
18 below.

19 CIRCUMSTANCES IN MITIGATION

20 12. Respondents are admitting responsibility at an early stage in the proceedings.

21 CONTINGENCY

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

25 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an  
26 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
27 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
28 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary

1 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
2 writing executed by an authorized representative of each of the parties.

3 15. This stipulation shall be subject to the Board's approval. Respondents understand  
4 and agree that counsel for Complainant may communicate directly with the Board regarding this  
5 stipulation and settlement without notice to or participation by Respondents and their counsel. By  
6 signing this stipulation, Respondents understand and agree that they may not withdraw their  
7 agreement to its terms and/or rescind the stipulation prior to when the Board considers and acts  
8 upon it. If the Board fails to adopt this stipulation as its Decision and Order, the instant  
9 Stipulated Settlement and Disciplinary Order shall be of no force and effect and with the  
10 exception of this paragraph, shall be deemed inadmissible in any legal action between the parties  
11 and the Board shall not be disqualified from further action by having considered this matter.  
12

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

17  
18 **DISCIPLINARY ORDER**

19 IT IS HEREBY ORDERED that Pharmacy Permit No. 44525 issued to Respondent Forum  
20 Drug/Park is revoked. Respondent Park further agrees that he shall never file any petitions for  
21 reinstatement of his pharmacy permit and/or applications for a new pharmacy permit with the  
22 Board.

23 IT IS FURTHER ORDERED that Pharmacist License No. 44773 issued to Respondent  
24 Park is revoked. However, the revocation is stayed and Respondent's license is suspended for  
25 one (1) year from the effective date of the Decision and Order herein. At the conclusion of the  
26 one (1) year suspension of Respondent Park's license, Respondent Park shall be placed on  
27 probation for five (5) years on the following terms and conditions.  
28

1           **1. Obey All Laws**

2           Respondent Park shall obey all state and federal laws and regulations.

3           Respondent Park shall report any of the following occurrences to the Board, in writing,  
4           within seventy-two (72) hours of such occurrence:

- 5           • An arrest or issuance of a criminal complaint for violation of any provision of the  
6           Pharmacy Law, state and federal food and drug laws, or state and federal controlled  
7           substances laws;
- 8           • A plea of guilty or nolo contendere in any state or federal criminal proceeding to any  
9           criminal complaint, information or indictment;
- 10          • A conviction of any crime;
- 11          • Discipline, citation, or other administrative action filed by any state or federal agency  
12          which involves Respondent Park's pharmacist license or which is related to the  
13          practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing,  
14          or charging for any drug, device or controlled substance.

15          Failure to timely report such occurrence shall be considered a violation of probation.

16           **2. Report to the Board**

17          Respondent Park shall report to the board quarterly, on a schedule as directed by the Board  
18          or its designee. The report shall be made either in person or in writing, as directed. Among other  
19          requirements, Respondent Park shall state in each report under penalty of perjury whether there  
20          has been compliance with all the terms and conditions of probation. Failure to submit timely  
21          reports in a form as directed shall be considered a violation of probation. Any period(s) of  
22          delinquency in submission of reports as directed may be added to the total period of probation.  
23          Moreover, if the final probation report is not made as directed, probation shall be automatically  
24          extended until such time as the final report is made and accepted by the Board.

25           **3. Interview with the Board**

26          Upon receipt of reasonable prior notice, Respondent Park shall appear in person for  
27          interviews with the Board or its designee, at such intervals and locations as are determined by the  
28          Board or its designee. Failure to appear for any scheduled interview without prior notification to

1 Board staff, or failure to appear for two (2) or more scheduled interviews with the Board or its  
2 designee during the period of probation, shall be considered a violation of probation.

3 **4. Cooperate with Board Staff**

4 Respondent Park shall cooperate with the Board's inspection program and with the Board's  
5 monitoring and investigation of Respondent Park's compliance with the terms and conditions of  
6 his probation. Failure to cooperate shall be considered a violation of probation.

7 **5. Continuing Education**

8 Respondent Park shall provide evidence of efforts to maintain skill and knowledge as a  
9 pharmacist as directed by the Board or its designee.

10 **6. Notice to Employers**

11 During the period of probation, Respondent Park shall notify all present and prospective  
12 employers of the decision in case number 3084 and the terms, conditions and restrictions imposed  
13 on Respondent Park by the decision, as follows:

14 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
15 Respondent Park undertaking any new employment, Respondent Park shall cause his direct  
16 supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during  
17 Respondent Park's tenure of employment) and owner to report to the Board in writing  
18 acknowledging that the listed individual(s) has/have read the decision in case number 3084, and  
19 terms and conditions imposed thereby. It shall be Respondent Park's responsibility to ensure that  
20 his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

21 If Respondent Park works for or is employed by or through a pharmacy employment  
22 service, Respondent Park must notify his direct supervisor, pharmacist-in-charge, and owner at  
23 every entity licensed by the Board of the terms and conditions of the decision in case number  
24 3084 in advance of the Respondent Park commencing work at each licensed entity. A record of  
25 this notification must be provided to the Board upon request.

26 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
27 (15) days of Respondent Park undertaking any new employment by or through a pharmacy  
28 employment service, Respondent Park shall cause his direct supervisor with the pharmacy

1 employment service to report to the Board in writing acknowledging that he has read the decision  
2 in case number 3084 and the terms and conditions imposed thereby. It shall be Respondent  
3 Park's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely  
4 acknowledgment(s) to the Board.

5 Failure to timely notify present or prospective employer(s) or to cause that/those  
6 employer(s) to submit timely acknowledgments to the Board shall be considered a violation of  
7 probation.

8 "Employment" within the meaning of this provision shall include any full-time,  
9 part-time, temporary, relief or pharmacy management service as a pharmacist or any  
10 position for which a pharmacist license is a requirement or criterion for employment,  
11 whether the respondent is an employee, independent contractor or volunteer.

12 **7. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**  
13 **Designated Representative-in-Charge, or Serving as a Consultant**

14 During the period of probation, Respondent Park shall not supervise any intern pharmacist,  
15 be the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the  
16 Board, nor serve as a consultant unless otherwise specified in this order. Assumption of any such  
17 unauthorized supervision responsibilities shall be considered a violation of probation.

18 **8. Reimbursement of Board Costs**

19 As a condition precedent to successful completion of probation, Respondent Park shall pay  
20 to the Board its costs of investigation and prosecution in the amount of \$21,000.00. Respondent  
21 Park shall make said payments as directed by the Board or its designee. There shall be no  
22 deviation from this schedule absent prior written approval by the Board or its designee. Failure to  
23 pay costs by the deadline(s) as directed shall be considered a violation of probation.

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

26 **9. Probation Monitoring Costs**

27 Respondent Park shall pay any costs associated with probation monitoring as determined by  
28 the Board each and every year of probation. Such costs shall be payable to the Board on a



1 schedule as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as  
2 directed shall be considered a violation of probation.

3 **10. Status of License**

4 Respondent Park shall, at all times while on probation, maintain an active, current license  
5 with the Board, including any period during which suspension or probation is tolled. Failure to  
6 maintain an active, current license shall be considered a violation of probation.

7 If Respondent Park's license expires or is cancelled by operation of law or otherwise at any  
8 time during the period of probation, including any extensions thereof due to tolling or otherwise,  
9 upon renewal or reapplication Respondent Park's license shall be subject to all terms and  
10 conditions of this probation not previously satisfied.

11 **11. License Surrender While on Probation/Suspension**

12 Following the effective date of this decision, should Respondent Park cease practice due to  
13 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,  
14 Respondent Park may tender his license to the Board for surrender. The Board or its designee  
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 Respondent Park will no longer be subject to the terms and conditions of probation. This  
18 surrender constitutes a record of discipline and shall become a part of the Respondent Park's  
19 license history with the Board.

20 Upon acceptance of the surrender, Respondent Park shall relinquish his pocket and wall  
21 license to the Board within ten (10) days of notification by the Board that the surrender is  
22 accepted. Respondent Park may not reapply for any license from the board for three (3) years  
23 from the effective date of the surrender. Respondent Park shall meet all requirements applicable  
24 to the license sought as of the date the application for that license is submitted to the Board,  
25 including any outstanding costs.

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1           **12. Notification of a Change in Name, Residence Address, Mailing Address or**  
2 **Employment**

3           Respondent Park shall notify the Board in writing within ten (10) days of any change of  
4 employment. Said notification shall include the reasons for leaving, the address of the new  
5 employer, the name of the supervisor and owner, and the work schedule if known. Respondent  
6 Park shall further notify the Board in writing within ten (10) days of a change in name, residence  
7 address, mailing address, or phone number.

8           Failure to timely notify the Board of any change in employer(s), name(s), address(es), or  
9 phone number(s) shall be considered a violation of probation.

10           **13. Tolling of Probation**

11           Except during periods of suspension, Respondent Park shall, at all times while on  
12 probation, be employed as a pharmacist in California for a minimum of 40 hours per calendar  
13 month. Any month during which this minimum is not met shall toll the period of probation, i.e.,  
14 the period of probation shall be extended by one month for each month during which this  
15 minimum is not met. During any such period of tolling of probation, Respondent Park must  
16 nonetheless comply with all terms and conditions of probation.

17           Should Respondent Park, regardless of residency, for any reason (including vacation) cease  
18 practicing as a pharmacist for a minimum of 40 hours per calendar month in California,  
19 Respondent Park must notify the Board in writing within ten (10) days of the cessation of  
20 practice, and must further notify the Board in writing within ten (10) days of the resumption of  
21 practice. Any failure to provide such notification(s) shall be considered a violation of probation.

22           It is a violation of probation for Respondent Park's probation to remain tolled pursuant to  
23 the provisions of this condition for a total period, counting consecutive and non-consecutive  
24 months, exceeding thirty-six (36) months.

25           "Cessation of practice" means any calendar month during which Respondent  
26 Park is not practicing as a pharmacist for at least 40 hours, as defined by Business and  
27 Professions Code section 4000 et seq. "Resumption of practice" means any calendar  
28 month during which Respondent Park is practicing as a pharmacist for at least 40

1 hours as a pharmacist as defined by Business and Professions Code section 4000 et  
2 seq.

3 **14. Violation of Probation**

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

9 If Respondent Park violates probation in any respect, the Board, after giving Respondent  
10 Park notice and an opportunity to be heard, may revoke probation and carry out the disciplinary  
11 order that was stayed. Notice and opportunity to be heard are not required for those provisions  
12 stating that a violation thereof may lead to automatic termination of the stay and/or revocation of  
13 the license. If a petition to revoke probation or an accusation is filed against Respondent Park  
14 during probation, the Board shall have continuing jurisdiction and the period of probation shall be  
15 automatically extended until the petition to revoke probation or accusation is heard and decided.

16 **15. Completion of Probation**

17 Upon written notice by the Board or its designee indicating successful completion of  
18 probation, Respondent Park's license will be fully restored.

19 **16. Suspension**

20 As part of probation, Respondent Park is suspended from the practice of pharmacy for one  
21 (1) year beginning the effective date of this decision.

22 During suspension, Respondent Park shall not enter any pharmacy area or any portion of  
23 the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor  
24 of drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and  
25 devices or controlled substances are maintained. Respondent Park shall not practice pharmacy  
26 nor do any act involving drug selection, selection of stock, manufacturing, compounding,  
27 dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to  
28

1 any licensee of the Board, or have access to or control the ordering, manufacturing or dispensing  
2 of dangerous drugs and devices or controlled substances.

3 Respondent Park shall not engage in any activity that requires the professional judgment of  
4 a pharmacist. Respondent Park shall not direct or control any aspect of the practice of pharmacy.  
5 Respondent shall not perform the duties of a pharmacy technician or a designated representative  
6 for any entity licensed by the Board.

7 Failure to comply with this suspension shall be considered a violation of probation.

#### 8 17. Tolling of Suspension

9 If Respondent Park leaves California to reside or practice outside this state, for any period  
10 exceeding 10 days (including vacation), Respondent Park must notify the Board in writing of the  
11 dates of departure and return. Periods of residency or practice outside the state – or any absence  
12 exceeding a period of 10 days shall not apply to the reduction of the suspension period.

#### 13 18. Supervised Practice

14 During the period of probation, Respondent Park shall practice only under the supervision  
15 of a licensed pharmacist not on probation with the Board. Upon and after the effective date of  
16 this decision, Respondent Park shall not practice pharmacy and his license shall be automatically  
17 suspended until a supervisor is approved by the Board or its designee. The supervision shall be,  
18 as required by the board or its designee, either:

19 Continuous – At least 75% of a work week

20 Substantial - At least 50% of a work week

21 Partial - At least 25% of a work week

22 Daily Review - Supervisor's review of probationer's daily activities within 24 hours

23 Within thirty (30) days of the effective date of this decision/the expiration of his one (1)  
24 year suspension, Respondent Park shall have his supervisor submit notification to the Board in  
25 writing stating that the supervisor has read the decision in case number 3084 and is familiar with  
26 the required level of supervision as determined by the Board or its designee. It shall be the  
27 Respondent Park's responsibility to ensure that his employer(s), pharmacist-in-charge and/or  
28 supervisor(s) submit timely acknowledgement(s) to the Board. Failure to cause the direct

1 supervisor and the pharmacist-in-charge to submit timely acknowledgements to the Board shall  
2 be considered a violation of probation.

3 If Respondent Park changes employment during his probationary period, it shall be the  
4 Respondent Park's responsibility to ensure that his employer(s), pharmacist-in-charge and/or  
5 supervisor(s) submit timely acknowledgement(s) to the Board. Respondent Park shall have his  
6 new supervisor, within fifteen (15) days after employment commences, submit notification to the  
7 Board in writing stating the direct supervisor and pharmacist-in-charge have read the decision in  
8 case number 3084 and is familiar with the level of supervision as determined by the Board.  
9 Respondent Park shall not practice pharmacy and his license shall be automatically suspended  
10 until the Board or its designee approves a new supervisor. Failure to cause the direct supervisor  
11 and the pharmacist-in-charge to submit timely acknowledgements to the board shall be  
12 considered a violation of probation.

13 Within ten (10) days of leaving employment during his probationary period, Respondent  
14 Park shall notify the Board in writing.

15 During suspension, Respondent Park shall not enter any pharmacy area or any portion of  
16 the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor  
17 of drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and  
18 devices or controlled substances are maintained. Respondent Park shall not practice pharmacy  
19 nor do any act involving drug selection, selection of stock, manufacturing, compounding,  
20 dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to  
21 any licensee of the Board, or have access to or control the ordering, manufacturing or dispensing  
22 of dangerous drugs and controlled substances. Respondent Park shall not resume practice until  
23 notified by the Board.

24 During suspension, Respondent Park shall not engage in any activity that requires the  
25 professional judgment of a pharmacist. Respondent Park shall not direct or control any aspect of  
26 the practice of pharmacy. Respondent Park shall not perform the duties of a pharmacy technician  
27 or a designated representative for any entity licensed by the Board.

28 Failure to comply with this suspension shall be considered a violation of probation.

1           **19. No Ownership of Licensed Premises**

2           Respondent Park shall not own, have any legal or beneficial interest in, or serve as a  
3 manager, administrator, member, officer, director, trustee, associate, or partner of any business,  
4 firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent Park  
5 shall sell or transfer any legal or beneficial interest in any entity licensed by the Board within  
6 ninety (90) days following the effective date of this decision and shall immediately thereafter  
7 provide written proof thereof to the Board. Failure to timely divest any legal or beneficial  
8 interest(s) or provide documentation thereof shall be considered a violation of probation.

9           **20. Ethics Course**

10           Within sixty (60) calendar days of the beginning date of Respondent Park's probationary  
11 period, Respondent Park shall enroll in a course in ethics, at Respondent Park's expense,  
12 approved in advance by the Board or its designee. Failure to initiate the course during the first  
13 year of probation, and complete it within the second year of probation, is a violation of probation.

14           Respondent Park shall submit a certificate of completion to the Board or its designee within  
15 five days after completing the course.

16           **21. Pharmacy Self-Assessment Mechanism**

17           Within the first year of probation, Respondent Park shall complete the Pharmacist Self-  
18 Assessment Mechanism (PSAM) examination provided by the National Association of Boards of  
19 Pharmacy (NABP). Respondent Park shall submit a record of completion to the Board  
20 demonstrating he/she has completed this examination. Respondent Park shall bear all costs for the  
21 examination. Continuing education hours received for this examination shall not be used as part  
22 of the required continuing education hours for renewal purposes. Respondent Park shall waive  
23 any rights to confidentiality and provide examination results to the Board or its designee. Failure  
24 to timely complete the PSAM or submit documentation thereof shall be considered a violation of  
25 probation. Respondent Park shall waive any rights to confidentiality and provide examination  
26 results to the Board or its designee. Based on the results of the examination, the Board shall  
27 determine which courses are appropriate for remedial education.

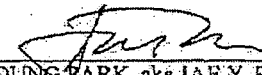
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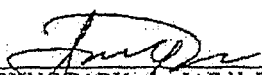
22. Remedial Education

2 Respondent Park's appropriate program of remedial education as determined by the Board  
 3 shall consist of a minimum number of hours to be determined by the Board and shall be  
 4 completed within a time frame as determined by the Board at Respondent's own expense. The  
 5 period of probation shall be extended until such remedial education is successfully completed and  
 6 written proof, in a form acceptable to the Board, is provided to the Board. All remedial education  
 7 shall be in addition to continuing education courses used for license renewal purposes. Failure to  
 8 complete the remedial education as set forth hereinabove is grounds for the filing of a petition to  
 9 revoke probation. Following the completion of each course, the Board or its designee may  
 10 require the Respondent Park, at his own expense, to take an approved examination to test the  
 11 Respondent Park's knowledge of the course. If the Respondent Park does not achieve a passing  
 12 score on the examination, this failure shall be considered a violation of probation. Any such  
 13 examination failure shall require Respondent Park to take another course approved by the Board  
 14 in the same subject area.

16 ACCEPTANCE

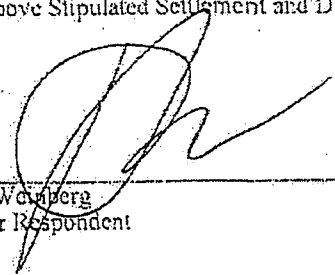
17 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
 18 discussed it with my attorney, Herbert L. Weinberg. I understand the stipulation and the effect it  
 19 will have on my Pharmacy Permit and Pharmacist License. I enter into this Stipulated Settlement  
 20 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
 21 Decision and Order of the Board.

23 DATED: 12-18-09   
 24 JAE YOUNG PARK, aka JAE Y. PARK,  
 25 doing business as FORUM DRUG  
 26 Respondent Forum Drug/Park

27 DATED: 12-18-09   
 28 JAE YOUNG PARK, aka JAE Y. PARK  
 Respondent Park

1 I have read and fully discussed with Respondent Forum Drug: Jae Young Park the terms  
2 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary  
3 Order. I approve its form and content.

4  
5 DATED: 12/18/09

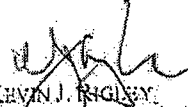
  
Herbert L. Weinberg  
Attorney for Respondent

6  
7  
8  
9 ENDORSEMENT

10 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
11 submitted for consideration by the Board.

12  
13 Dated: 12/21/09

Respectfully Submitted,  
EDMUND G. BROWN JR.  
Attorney General of California  
GREGORY J. SALUTE  
Supervising Deputy Attorney General

  
KEVIN J. RIGGINS  
Deputy Attorney General  
Attorney for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 3084

12 JAE Y. PARK, doing business as  
FORUM DRUG  
13 3307 W. Pico Blvd.  
Los Angeles, CA 90019  
14 JAE Y. PARK, Pharmacist-in-Charge

**ACCUSATION**

15 Original Pharmacy Permit No. PHY 44525

16 JAE YOUNG PARK, also known as  
JAE Y. PARK.  
17 1501 Emerald Lane  
Diamond Bar, CA 91765

18 Original Pharmacist No. RPH 44773

19 Respondents.  
20

21 Complainant alleges:

22 **PARTIES**

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

26 2. On or about August 22, 1991, the Board issued Original Pharmacist  
27 License No. 44773 to Jae Young Park, also known as Jae Y. Park, ("Respondent Park"). The

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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, 2009, unless renewed.

3 3. On or about January 13, 2000, the Board issued Original Pharmacy Permit  
4 No. 44525 to Respondent Park, to do business as Forum Drug ("Respondents Forum Drug"),  
5 with Respondent Park as Pharmacist-in-Charge. The Original Pharmacy Permit was in full force  
6 and effect at all times relevant to the charges brought herein and will expire on January 1, 2009,  
7 unless renewed.

8 **JURISDICTION**

9 4. This Accusation is brought before the Board under the authority of the  
10 following laws. All section references are to the Business and Professions Code ("Code") unless  
11 otherwise indicated.

12 5. Section 4300 of the Code states:

13 "(a) Every license issued may be suspended or revoked.

14 "(b) The board shall discipline the holder of any license issued by the board,  
15 whose default has been entered or whose case has been heard by the board and found guilty."

16 6. Section 4301 of the Code states:

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

21 ...  
22 "(b) Incompetence.

23 "(c) Gross negligence.

24 "(d) The clearly excessive furnishing of controlled substances in violation of  
25 subdivision (a) of Section 11153 of the Health and Safety Code.

26 ....

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

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

8           7.       Section 4113 of the Code states:

9           “(a) Every pharmacy shall designate a pharmacist-in-charge and within 30 days  
10 thereof, shall notify the board in writing of the identity and license number of that pharmacist and  
11 the date he or she was designated.

12           (b) The pharmacist-in-charge shall be responsible for a pharmacy's compliance  
13 with all state and federal laws and regulations pertaining to the practice of pharmacy.”

14           8.       Section 4070 of the Code states:

15           “(a) Except as provided in Section 4019 and subdivision (b), an oral or an  
16 electronic data transmission prescription as defined in subdivision (c) of Section 4040 shall as  
17 soon as practicable be reduced to writing by the pharmacist and shall be filled by, or under the  
18 direction of, the pharmacist. The pharmacist need not reduce to writing the address, telephone  
19 number, license classification, federal registry number of the prescriber or the address of the  
20 patient or patients if the information is readily retrievable in the pharmacy.”

21           9.       Health and Safety Code section 11153, states, in pertinent part:

22           “(a) A prescription for a controlled substance shall only be issued for a legitimate  
23 medical purpose by an individual practitioner acting in the usual course of his or her professional  
24 practice. The responsibility for the proper prescribing and dispensing of controlled substances is  
25 upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist  
26 who fills the prescription. Except as authorized by this division, the following are not legal  
27 prescriptions: (1) an order purporting to be a prescription which is issued not in the usual course  
28 of professional treatment or in legitimate and authorized research; or (2) an order for an addict or

1 habitual user of controlled substances, which is issued not in the course of professional treatment  
2 or as part of an authorized narcotic treatment program, for the purpose of providing the user with  
3 controlled substances, sufficient to keep him or her comfortable by maintaining customary use.”

4 10. California Code of Regulations, title 16, section 1716.2 states:

5 “(a) For the purpose of compounding in quantities larger than required for  
6 immediate dispensing by a prescriber or for future dispensing upon prescription, a pharmacy  
7 shall maintain records that include, but are not limited to:

8 (1) The date of preparation.

9 (2) The lot numbers. These may be the manufacturer's lot numbers or new  
10 numbers assigned by the pharmacy. If the lot number is assigned by the pharmacy, the pharmacy  
11 must also record the original manufacturer's lot numbers and expiration dates, if known. If the  
12 original manufacturer's lot numbers and expiration dates are not known, the pharmacy shall  
13 record the source and acquisition date of the components.

14 (3) The expiration date of the finished product. This date must not exceed 180  
15 days or the shortest expiration date of any component in the finished product unless a longer date  
16 is supported by stability studies in the same type of packaging as furnished to the prescriber.  
17 Shorter dating than set forth in this subsection may be used if it is deemed appropriate in the  
18 professional judgment of the responsible pharmacist.

19 (4) The signature or initials of the pharmacist performing the compounding.

20 (5) A formula for the compounded product. The formula must be maintained in a  
21 readily retrievable form.

22 (6) The name(s) of the manufacturer(s) of the raw materials.

23 (7) The quantity in units of finished products or grams of raw materials.

24 (8) The package size and the number of units prepared.”

25 11. California Code of Regulations, title 16, section 1717, states:

26 “(a) No medication shall be dispensed on prescription except in a new container  
27 which conforms with standards established in the official compendia.

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1 "Notwithstanding the above, a pharmacist may dispense and refill a prescription  
2 for non-liquid oral products in a clean multiple-drug patient medication package (patient med  
3 pak), provided:

4  
5 "(c) Promptly upon receipt of an orally transmitted prescription, the pharmacist  
6 shall reduce it to writing, and initial it, and identify it as an orally transmitted prescription. If the  
7 prescription is then dispensed by another pharmacist, the dispensing pharmacist shall also initial  
8 the prescription to identify him or herself.

9 "All orally transmitted prescriptions shall be received and transcribed by a  
10 pharmacist prior to compounding, filling, dispensing, or furnishing.

11 "Chart orders as defined in Section 4019 of the Business and Professions Code are  
12 not subject to the provisions of this subsection.

13 "(d) A pharmacist may furnish a drug or device pursuant to a written or oral order  
14 from a prescriber licensed in a State other than California in accordance with Business and  
15 Professions Code Section 4005."

16 12. California Code of Regulations, title 16, section 1717.4, subdivision (h),  
17 states:

18 "Any person who transmits, maintains or receives any prescription or prescription  
19 refill, orally, in writing or electronically, shall ensure the security, integrity, authenticity, and  
20 confidentiality of the prescription and any information contained therein."

21 13. California Code of Regulations, title 16, section 1761 states:

22 "(a) No pharmacist shall compound or dispense any prescription which contains  
23 any significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of  
24 any such prescription, the pharmacist shall contact the prescriber to obtain the information  
25 needed to validate the prescription.

26 (b) Even after conferring with the prescriber, a pharmacist shall not compound or  
27 dispense a controlled substance prescription where the pharmacist knows or has objective reason  
28 to know that said prescription was not issued for a legitimate medical purpose."

1                   14. California Code of Regulations, title 16, section 1793.7, states, in  
2 pertinent part:

3                   “(c) A pharmacy technician must wear identification clearly identifying him or her  
4 as a pharmacy technician.

5                   (d) Any pharmacy employing or using a pharmacy technician shall develop a job  
6 description and written policies and procedures adequate to ensure compliance with the  
7 provisions of Article 11 of this Chapter, and shall maintain, for at least three years from the time  
8 of making, records adequate to establish compliance with these sections and written policies and  
9 procedures.”

10                  15. Section 118, subdivision (b), of the Code provides that the suspension,  
11 expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to  
12 proceed with a disciplinary action during the period within which the license may be renewed,  
13 restored, reissued or reinstated.

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

18                                   **CONTROLLED SUBSTANCES/DANGEROUS DRUGS**

19                  A. “Codeine” is a Schedule II controlled substance, as defined by Health and  
20 Safety Code section 11055, and is categorized as a “dangerous drug” pursuant to Business and  
21 Professions Code section 4022.

22                  B. “Klonopin” is the brand name for Clonazepam. It is a Schedule IV  
23 controlled substance, as defined in Health and Safety Code section 11057, and is categorized as a  
24 “dangerous drug” pursuant to Business and Professions Code section 4022.

25                  C. “Phenergan with Codeine” is the brand name for Promethazine with  
26 Codeine. It is a Schedule V controlled substance, as defined in Health and Safety Code section  
27 11058, and is categorized as a “dangerous drug” pursuant to Business and Professions Code  
28 section 4022.

1 D. "Tylenol with Codeine #3" is the brand name for Acetaminophen 300mg  
2 with Codeine 30mg. It is a Schedule III controlled substance, as defined in Health and Safety  
3 Code section 11056, and is categorized as a "dangerous drug" pursuant to Business and  
4 Professions Code section 4022.

5 E. "Valium" is the brand name for Diazepam. It is a Schedule IV controlled  
6 substance, as defined in Health and Safety Code section 11057, and is categorized as a  
7 "dangerous drug" pursuant to Business and Professions Code section 4022.

8 F. "Antibiotics" generally are categorized as "dangerous drugs" pursuant to  
9 Business and Professions Code section 4022.

### 10 FIRST CAUSE FOR DISCIPLINE

#### 11 **(Failure to Reduce to Writing Orally Transmitted Prescriptions)**

12 17. Respondents are subject to discipline pursuant to Code sections 4300,  
13 4301, subdivision (o), 4070, subdivision (a), and 4113, in conjunction with California Code of  
14 Regulations, title 16, sections 1717, subdivision (c), and 1717.4, subdivision (h), in that  
15 Respondent Park repeatedly took receipt of orally transmitted prescriptions in a spiral notebook,  
16 which contained the patient's name, drug and quantity of the drug to be filled. Further,  
17 Respondent Park failed to reduce the complete prescription to writing until after the prescription  
18 was dispensed. Specifically, during an inspection of Respondent Forum Drug on May 5, 2006, a  
19 Board inspector observed Respondent Park writing orally transmitted prescriptions containing  
20 only patient names, drugs, and quantities to be dispensed, in a spiral notebook after speaking  
21 with a physician, as well as filling the prescription prior to reducing the telephoned prescriptions  
22 to a proper telephone prescription form. Further, Respondent Park failed to provide the Board  
23 inspector with telephone prescription forms corresponding to all of the telephoned prescription  
24 notes contained in the spiral notebook.

### 25 SECOND CAUSE FOR DISCIPLINE

#### 26 **(Requirements of Employing Pharmacy Technicians)**

27 18. Respondents are subject to discipline pursuant to Code sections 4300,  
28 4301, subdivision (o), and 4113, in conjunction with California of Regulations, title 16, section

1 1793.7, subdivisions (c) and (d), in that Respondents employed a pharmacy technician and failed  
2 to develop a job description, written policies and procedures, and name tags for the technicians.  
3 Specifically, during an inspection of Respondent Forum Drug on May 5, 2006, a Board inspector  
4 observed a pharmacy technician filling prescriptions without a name tag to identify herself as a  
5 pharmacy technician. When Respondent Park was asked to provide a copy of Respondents'  
6 policies and procedures and job description for the position of pharmacy technician, Respondent  
7 Park stated they did not exist.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Erroneous and Uncertain Prescriptions)**

10 19. Respondents are subject to discipline pursuant to Code sections 4300  
11 4301, subdivision (o), and 4113, in conjunction with California Code of Regulations, title 16,  
12 section 1761, subdivisions (a) and/or (b), in that Respondents dispensed erroneous and uncertain  
13 prescriptions, and/or, prescriptions that Respondents should have known were not for a  
14 legitimate medical purpose, as follows:

15 a. Phenergan with Codeine: In or between May 5, 2003 and May 5, 2006,  
16 Respondents dispensed Phenergan with Codeine to at least six patients, including, but not limited  
17 to, Patients<sup>1/</sup> E.B., C.F., I.G., O.M., J. S., and H.W., as a long-term therapy for the treatment of  
18 productive cough associated with chronic bronchitis. Respondents failed to question whether  
19 Phenergan with Codeine was the appropriate treatment, as Phenergan with Codeine is indicated  
20 for the temporary relief of cough and is not recommended for habitual use, or for the treatment of  
21 productive cough associated with chronic bronchitis. The circumstances include the following:

22 i. In or between May 5, 2003 and May 5, 2006, Respondents filled  
23 prescriptions for Phenergan with Codeine for Patient E.B. at least 35 times, Patient C.F. at least

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25  
26  
27 1. All Patients are referred to by their first and last initial to protect patient privacy. All  
28 patient names will be released upon the receipt of a proper request for discovery in this matter  
from the Respondent. In addition, the majority of the prescriptions filled for the listed patients,  
as well as the majority of Respondents' customers, were patients of physician M. Apusen.



1 35 times, Patient I.G. at least 33 times, Patient O. M. at least 32 times, Patient J.S. at least 28  
2 times, and Patient H.W. at least 37 times.

3 ii. Additionally, in or between March 1, 2006 and April 27, 2006,  
4 Respondents dispensed prescriptions for Phenergen with Codeine 604 of 719 patient visits, or  
5 eighty-four percent (84%) of the patient visits to Respondent Forum Drug.

6 iii. A review of Respondents' patient profiles revealed that  
7 prescriptions for Phenergen with Codeine were consistently dispensed in the same amount of  
8 360ml, or 12 ounces, and consistently calculated as a 22 day supply. Additionally, the patient  
9 profiles revealed that prescriptions for Phenergen with Codeine were filled consistently  
10 approximately 30 days apart. This pattern is not consistent with normal pharmacy settings.  
11 Refills for Phenergen with Codeine are not routinely filled 30 days apart, as Phenergen with  
12 Codeine is prescribed on as needed basis.

13 b. Clonazepam/Diazepam: In or between May 5, 2003 and May 5, 2006,  
14 Respondents dispensed maximum dosages of Clonazepam and Diazepam, two benzodiazepines  
15 representing duplicate therapy, concurrently to at least four patients, including, but not limited to,  
16 Patients E.B., C.F., J. S., and H.W.

17 c. Acetaminophen with Codeine: In or between May 5, 2003 and May 5,  
18 2006, Respondents dispensed Acetaminophen with Codeine #3 to at least five patients, including,  
19 but not limited to, Patients E.B., C.F., I.G., O.M., and J. S., for the treatment of degenerative  
20 joint disease. Respondents failed to question whether the use other therapies was appropriate, as  
21 the use of codeine is not recommended for patients with degenerative joint disease.

22 d. Antibiotics: In or between May 5, 2003 and May 5, 2006, Respondents  
23 dispensed prescriptions for the long-term use of antibiotics for the treatment of chronic bronchitis  
24 to at least five patients, including, but not limited to, Patients C.F., I.G., O.M., J. S., and H.W.  
25 Respondents failed to question whether other treatments were appropriate, as the long term,  
26 prophylactic use of antibiotics in patients is not appropriate.

27 e. Spiral Notebook: Respondents filled uncertain prescriptions, in that  
28 Respondent Park wrote orally transmitted prescriptions as notes in a spiral notebook, which only

1 contained the name of the patient, the drug prescribed and the quantity to be dispensed.

2 Respondent Park would later reduce to actual prescription to a telephone prescription form.

3 i. Specifically, during an inspection of Respondent Forum Drug on  
4 May 5, 2006, Respondent Park was observed writing notes regarding prescriptions in a spiral  
5 notebook while on the telephone with a physician. The notes in the spiral notebook failed to  
6 contain information regarding whether refills were authorized, the directions for the  
7 prescription's use, and the name of the prescribing physician. Respondent Park stated that when  
8 Dr. M. Apusen called in a prescription, he would write notes in the spiral notebook, and when he  
9 had time, he would reduce the full prescription to a telephone prescription form.

10 ii. When asked to provide the telephone prescription forms for the  
11 current week, Respondent Park provided only some prescriptions, to which he added directions  
12 and the prescribing physician's name. Further, it was determined that some orally transmitted  
13 prescriptions were not properly reduced to telephone prescription forms before the prescriptions  
14 were dispensed, as was required.

#### 15 **FOURTH CAUSE FOR DISCIPLINE**

16 (Excessive Furnishing of Controlled Substances)

17 20. Respondents are subject to discipline pursuant to Code sections 4300,  
18 4301, subdivisions (d) and (j), and 4113, in conjunction with Health and Safety Code section  
19 11153, subdivision (a), in that Respondents furnished excessive amounts of controlled substances  
20 not for a legitimate medical purpose, as discussed in paragraph 19, subparagraphs (a), (b) and (c),  
21 above, which are herein incorporated by reference as set forth in full.

#### 22 **FIFTH CAUSE FOR DISCIPLINE**

23 (Gross Negligence and Incompetence)

24 21. Respondents are subject to discipline pursuant to Code sections 4300,  
25 4301, subdivisions (b), and/or, (c), and 4113, in that Respondents committed gross negligence,  
26 and/or, incompetence, by filling erroneous and uncertain prescriptions, and by furnishing  
27 excessive amounts of controlled substances, and/or, dangerous drugs, as more fully discussed in  
28 paragraph 19, subparagraphs (a), (b), (c) and (d), and paragraph 20, above.

1 **SIXTH CAUSE FOR DISCIPLINE**

2 (Failure to Record Lot Numbers and Expiration Dates)

3 22. Respondents are subject to discipline pursuant to Code sections 4300,  
4 4301, subdivision (o), and 4113, in conjunction with California Code of Regulations, title 16,  
5 section 1716.2, in that Respondents failed to record the lot numbers and expiration dates for  
6 drugs that were pre-packaged for records for future dispensing (a.k.a. pre-pack log).<sup>2/</sup>  
7 Specifically, during an inspection of Respondent Forum Drug on May 5, 2006, a Board inspector  
8 determined that Respondents dispensed pre-packed medications. A review of Respondent's pre-  
9 pack log revealed that Respondents mainly pre-packaged pain medications and antibiotics.  
10 Further review of the pre-pack log revealed that Respondents did not record the lot numbers and  
11 expiration dates of the medications that were pre-packed.

12 **SEVENTH CAUSE FOR DISCIPLINE**

13 (Unprofessional Conduct)

14 23. Respondents are subject to discipline pursuant to Code sections 4300,  
15 4301, and 4113, in that Respondents committed unprofessional conduct, as more fully discussed  
16 in paragraph 17 through 22, above.

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27 2. Respondents were issued a Correction Order on or about January 10, 2003, regarding  
28 Respondents' requirement to record lot numbers and expiration dates on the pre-pack log.

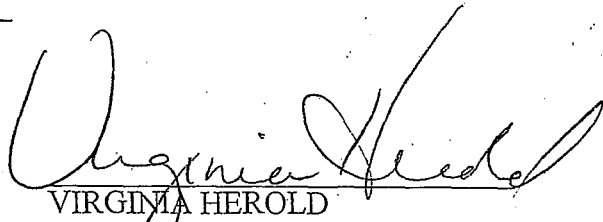
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PRAYER

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

1. Revoking or suspending Pharmacy Permit No. 44525, issued to Forum Drug; Jae Young Park;
2. Revoking or suspending Pharmacist License No. 44773, issued to Jae Young Park;
3. Ordering Jae Young Park and Forum Drug to pay the Board of Pharmacy, Department of Consumer Affairs the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
4. Taking such other and further action as deemed necessary and proper.

DATED: 12/11/08



VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
State of California  
Complainant