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Attorneys for Complainant
7

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

10 In the Matter of the Second Amended
11 Accusations Against:

12 **SUPERIOR MEDICAL SUPPLY, INC.;**
13 **MARK C. SNYDER, CEO**
11005 Dover Street, Suite 100
14 Westminster, CO 80021

15 Original Out of State Distributor Permit No.
OSD 4574

16 and

17 **JAKE J. SNYDER,**
Designated Representative-in-Charge
18 P.O. Box 270930
Superior, CO 80027

19 Original Certificate Number EXC 18204
20

21 Respondents.

Case No. 3331

OAH No. L-2010031073

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO JAKE J.
SNYDER ONLY**

22
23 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
24 entitled proceedings that the following matters are true:

25 **PARTIES**

26 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
27 She brought this action solely in her official capacity and is represented in this matter by Kamala
28 D. Harris, Attorney General of the State of California, by Heather Hua, Deputy Attorney General.

1 issuance of subpoenas to compel the attendance of witnesses and the production of documents;
2 the right to reconsideration and court review of an adverse decision; and all other rights accorded
3 by the California Administrative Procedure Act and other applicable laws.

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

6 **CULPABILITY**

7 9. Respondent understands and agrees that the charges and allegations of the Second
8 Amended Accusation No. 3331, if proven at a hearing, constitute cause for imposing discipline
9 upon his Original Certificate Number EXC 18204.

10 10. For the purpose of resolving the Second Amended Accusation without the expense
11 and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could
12 establish a factual basis for the charges set forth in the First, Second and Fourth Causes for
13 Discipline in the Second Amended Accusation, and that Respondent hereby gives up his right to
14 contest those charges. Respondent denies the Third Cause for Discipline; and the Board agrees to
15 give up its right to prosecute that charge at hearing provided however, that the Board is not
16 making any representations or concessions regarding the strength of its allegations and claims
17 against Respondent on the Third Cause for Discipline.

18 11. Respondent Jake Snyder agrees that his Original Certificate Number EXC.18204 is
19 subject to discipline and he agrees to be bound by the Board of Pharmacy (Board)'s probationary
20 terms as set forth in the Disciplinary Order below.

21 **CONTINGENCY**

22 12. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
23 Jake Snyder understands and agrees that counsel for Complainant and the staff of the Board of
24 Pharmacy may communicate directly with the Board regarding this stipulation and settlement,
25 without notice to or participation by Respondent or his counsel. By signing the stipulation,
26 Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the
27 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
28 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of

1 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
2 the parties, and the Board shall not be disqualified from further action by having considered this
3 matter.

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

7 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
8 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
9 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
10 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
11 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
12 writing executed by an authorized representative of each of the parties.

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

16 **DISCIPLINARY ORDER**

17 IT IS HEREBY ORDERED that Original Certificate Number EXC 18204 to Respondent
18 Jake Snyder is revoked. However, the revocation is stayed and Respondent is placed on
19 probation for four (4) years on the following terms and conditions.

20 1. **Obey All Laws**

21 Respondent shall obey all state and federal laws and regulations.

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

- 24 * an arrest or issuance of a criminal complaint for violation of any provision of the
25 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
26 substances laws
27 * an arrest or issuance of a criminal complaint for violation of any state or federal law
28 * a plea of guilty or nolo contendere in any state or federal criminal proceeding to any

1 criminal complaint, information or indictment

2 * a conviction of any crime

3 * discipline, citation, or other administrative action filed by any state or federal agency
4 which involves Respondent's Designated Representative license or which is related to
5 the practice of pharmacy or the manufacturing, obtaining, handling or distribution or
6 billing or charging for of any drug, device or controlled substance.

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

8 **2. Report to the Board**

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

17 **3. Interview with the Board**

18 Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews
19 with the Board or its designee, upon request at such intervals and locations as are determined by
20 the Board or its designee. Failure to appear for any scheduled interview without prior notification
21 to Board staff, or failure to appear for two (2) or more scheduled interviews with the Board or its
22 designee during the period of probation, shall be considered a violation of probation.

23 **4. Cooperate with Board Staff**

24 Respondent shall cooperate with the Board's inspection program and with the Board's
25 monitoring and investigation of Respondent's compliance with the terms and conditions of his
26 probation. Failure to cooperate shall be considered a violation of probation.

27 **5. Notice to Employers**

28 During the period of probation, Respondent shall notify all present and prospective

1 employers of the decision in case number 3331 and the terms, conditions and restrictions imposed
2 on Respondent by the decision, as follows:

3 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
4 Respondent undertaking any new employment, Respondent shall cause his direct supervisor,
5 designated representative-in-charge (including each new designated representative-in-charge
6 employed during Respondent's tenure of employment) and owner to report to the Board in
7 writing acknowledging that the listed individual(s) has/have read the decision in case number
8 3331 and terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure
9 that his employer(s) and/or supervisor(s) submit timely acknowledgement(s) to the Board.

10 If Respondent works for or is employed by or through a pharmacy employment service,
11 Respondent must notify his direct supervisor, designated representative-in-charge and owner at
12 each entity licensed by the Board of the terms and conditions of the decision in case number 3331
13 in advance of the Respondent commencing work at each licensed entity. A record of this
14 notification must be provided to the Board upon request.

15 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
16 (15) days of Respondent undertaking any new employment by or through a pharmacy
17 employment service, Respondent shall cause his direct supervisor with the pharmacy employment
18 service to report to the Board in writing acknowledging that he has read the decision in case
19 number 3331 and the terms and conditions imposed thereby. It shall be the Respondent's
20 responsibility to ensure that his employer(s) and/or supervisor(s) submit timely
21 acknowledgment(s) to the Board.

22 Failure to timely notify present or prospective employer(s) or to cause that/those
23 employer(s) to submit timely acknowledgements to the Board shall be considered a violation of
24 probation.

25 "Employment" within the meaning of this provision shall include any full-time,
26 part-time, temporary or relief service or pharmacy management service as a designated
27 representative or in any position for which a designated representative license is a
28 requirement or criterion for employment, whether the Respondent is considered an

1 employee or independent contractor or volunteer.

2 **6. No Being Designated Representative-in-Charge**

3 During the period of probation, Respondent shall not be the designated representative-in-
4 charge of any entity licensed by the Board unless otherwise specified in this order. Assumption
5 of any such unauthorized supervision responsibilities shall be considered a violation of probation.

6 **7. Reimbursement of Board Costs**

7 Respondent Superior Medical and Respondent Jake Snyder shall be jointly and severally
8 liable for payment to the Board of costs of investigation and prosecution ("Costs") in this matter,
9 which are agreed to be twenty-five thousand five hundred forty dollars (\$25,540). As a condition
10 precedent to successful completion of probation, Respondent Jake Snyder shall pay costs of
11 investigation and prosecution in accord with this agreement.

12 It shall be Respondents' responsibility to make these payments in a timely manner. Failure
13 to pay costs by the deadline(s) as directed shall be considered a violation of probation.

14 The filing of bankruptcy by Respondent owner shall not relieve Respondent of their
15 responsibility to reimburse the Board its costs of investigation and prosecution.

16 **8. Administrative Fine**

17 In addition to paying the Costs set forth in Condition 7 above, Respondent Jake Snyder and
18 Respondent Superior Medical shall pay an administrative fine ("Fine") in the amount of eighty
19 thousand dollars (\$80,000), for a total payment obligation of one hundred five thousand five
20 hundred forty dollars (\$105,540.00). Respondent shall pay the Costs and Fine by making
21 installment payments pursuant to the following payment plan approved by the Board.

22 Respondents Superior Medical and Jake Snyder shall jointly and severally make said
23 payments over a period of five (5) years as follows:

24 Respondents shall make monthly payments of \$1,759.00 as directed by the Board or its
25 designee, on or about the first day of each month, said payments commencing thirty (30) days
26 after the effective date of the decision, and continuing for 60 consecutive months thereafter.

27 Respondents may pay the full remaining unpaid balance of the Costs together with the Fine at any
28 time.

1 There shall be no deviation from this schedule absent prior written approval by the Board or
2 its designee, which approval shall not be unreasonably withheld. Respondent may pay the full
3 remaining unpaid balance at any time. Failure to pay the Costs together with the Fine by the
4 deadline(s) as directed shall be considered a violation of probation.

5 Neither the filing of bankruptcy by Respondent, nor the cancellation, forfeiture, suspension
6 or surrender of Respondent's license, shall relieve Respondent of its responsibility to pay the
7 Costs and Fine under this settlement.

8 **9. Probation Monitoring Costs**

9 Respondent shall pay any costs associated with probation monitoring as determined by the
10 Board each and every year of probation. Such costs shall be payable to the Board on a schedule
11 as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed
12 shall be considered a violation of probation.

13 **10. Status of License**

14 Respondent shall, at all times while on probation, maintain an active, current designated
15 representative license with the Board, including any period during which suspension or probation
16 is tolled. Failure to maintain an active, current license shall be considered a violation of
17 probation.

18 If Respondent's designated representative license expires or is cancelled by operation of law
19 or otherwise at any time during the period of probation, including any extensions thereof due to
20 tolling or otherwise, upon renewal or reapplication Respondent's license shall be subject to all
21 terms and conditions of this probation not previously satisfied.

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

23 Following the effective date of this decision, should Respondent cease work due to
24 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
25 Respondent may tender his designated representative license to the Board for surrender. The
26 Board or its designee shall have the discretion whether to grant the request for surrender or take
27 any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of
28 the license, Respondent will no longer be subject to the terms and conditions of probation. This

1 surrender constitutes a record of discipline and shall become a part of the Respondent's license
2 history with the Board.

3 Upon acceptance of the surrender, Respondent shall relinquish his designated representative
4 license to the Board within ten (10) days of notification by the Board that the surrender is
5 accepted. Respondent may not reapply for any license, permit, or registration from the Board for
6 three (3) years from the effective date of the surrender. Respondent shall meet all requirements
7 applicable to the license sought as of the date the application for that license is submitted to the
8 Board.

9 Neither the filing of bankruptcy by Respondent, nor the cancellation, forfeiture, suspension
10 or surrender of Respondent's license, shall relieve Respondent of its responsibility to pay the
11 Costs and Fine under this settlement.

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

14 Respondent shall notify the Board in writing within ten (10) days of any change of
15 employment. Said notification shall include the reasons for leaving and the address of the new
16 employer, supervisor and owner and work schedule, if known. Respondent shall further notify
17 the Board in writing within ten (10) days of a change in name, residence address and mailing
18 address, or phone number.

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

21 **13. Tolling of Probation**

22 Except during periods of suspension, Respondent shall, at all times while on probation,
23 retain his registration as a designated representative in California and be employed at a wholesale
24 facility at least 40 hours per calendar month. Any month during which this minimum is not met
25 shall toll the period of probation, i.e., the period of probation shall be extended by one month for
26 each month during which this minimum is not met. During any such period of tolling of
27 probation, Respondent must nonetheless comply with all terms and conditions of probation.

28 Should Respondent, regardless of residency, for any reason (including vacation) cease

1 working as a designated representative for a minimum of 40 hours as a designated representative,
2 Respondent must notify the Board in writing within ten (10) days of cessation of work and must
3 further notify the Board in writing within ten (10) days of the resumption of work. Any failure to
4 provide such notification(s) shall be considered a violation of probation.

5 It is a violation of probation for Respondent's probation to remain tolled pursuant to the
6 provisions of this condition for a total period, counting consecutive and non-consecutive months,
7 exceeding thirty-six (36) months. "Cessation of work" means any calendar month during which
8 Respondent is not working as a designated representative for at least 40 hours as a designated
9 representative as defined by Business and Professions Code section 4053. "Resumption of work"
10 means any calendar month during which Respondent is working as a designated representative for
11 at least 40 hours as a designated representative as defined by Business and Professions Code
12 section 4053.

13 14. Violation of Probation

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

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

26 15. Completion of Probation

27 Upon written notice by the Board indicating successful completion of probation,
28 Respondent's designated representative license will be fully restored.

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16. Remedial Education

Respondent Jake Snyder is required to provide within the sixty (60) days of the effective date of this decision, for prior approval, an appropriate program of remedial education of at least thirty (30) hours related to compliance with California state and federal laws regarding shipment and appropriate handling of dangerous drugs and devices (including but not limited to record keeping, temperature control and storage control). The remedial education shall be completed during the term of probation at Respondent's own expense. All remedial education shall be in addition to, and shall not be credited toward, continuing education (CE) courses used for license renewal purposes.

Failure to timely submit or complete the approved remedial education shall be considered a violation of probation. The period of probation will be automatically extended until such remedial education is successfully completed and written proof, in a form acceptable to the Board, is provided to the Board or its designee.

Following the completion of each course, the Board or its designee may require the Respondent, at his own expense, to take an approved examination to test the Respondent's knowledge of the course. If the Respondent does not achieve a passing score on the examination, this failure shall be considered a violation of probation. Any such examination failure shall require Respondent to take another course approved by the Board in the same subject area.

17. Ethics Course

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

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

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorneys, Gus Michaels, Gabriel Carter, and Craig Weinstein. I understand the stipulation and the effect it will have on my Original Certificate Number 18204. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: _____

signature pages attached

JAKE J. SNYDER
Designated Representative-in-Charge
Respondent

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

DATED: _____

GUS MICHAELS
Attorney for Respondent

DATED: _____

GABRIEL CARTER
Attorney for Respondent

DATED: _____

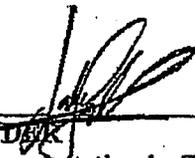
CRAIG WEINSTEIN
Attorney for Respondent

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DATED: 08/31/2011



JAKE J. SNYDER
Designated Representative-in-Charge
Respondent

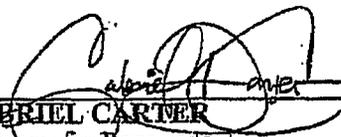
I have read and fully discussed with Respondent Jake J. Snyder the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 9/31/11



GUS MICHAELS
Attorney for Respondent

DATED: 08/31/2011



GABRIEL CARTER
Attorney for Respondent

DATED: _____

CRAIG WEINSTEIN
Attorney for Respondent

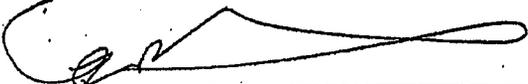
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DATED: _____
JAKE J. SNYDER
Designated Representative-in-Charge
Respondent

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

DATED: 8/31/11 _____

GUS MICHAELS
Attorney for Respondent

DATED: _____
GABRIEL CARTER
Attorney for Respondent

DATED: 8/31/2011 _____

CRAIG WEINSTEIN
Attorney for Respondent

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DATED: _____

JAKE J. SNYDER
Designated Representative-in-Charge
Respondent

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

DATED: 9/31/11 _____


GUS MICHAELS
Attorney for Respondent

DATED: _____

GABRIEL CARTER
Attorney for Respondent

DATED: _____

CRAIG WEINSTEIN
Attorney for Respondent

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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: *September 1, 2011*

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General



HEATHER HUA
Deputy Attorney General
Attorneys for Complainant

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60660578.doc

Exhibit A

Second Amended Accusation No. 3331

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 HEATHER HUA
Deputy Attorney General
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6 Facsimile: (213) 897-2804

7 *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:
12 **SUPERIOR MEDICAL SUPPLY INC.;**
13 **MARK C. SNYDER, CEO**
14 **11005 Dover Street, Suite 100**
15 **Westminster, CO 80021**
16 Original Out of State Distributor Permit No.
17 OSD 4574
18 and
19 **JAKE J. SNYDER,**
20 **Designated Representative-in-Charge**
21 **P.O. BOX 270930**
22 **Superior, CO 80027**
23 Original Certificate Number EXC 18204
24 Respondents.

Case No. 3331

SECOND AMENDED
ACCUSATION

23 Complainant alleges:

24 **PARTIES**

25 1. Virginia Herold (Complainant) brings this Second Amended Accusation solely in her
26 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
27 Affairs.
28

1 provisions of Chapter 9 of the pharmacy laws of the State of California (commencing with section
2 4300).

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

7 10. Section 4161 of the Code provides, in part, as follows:

8 “(a) A person located outside this state that ships, mails, or delivers dangerous drugs or
9 dangerous devices into this state shall be considered a nonresident wholesaler.

10 (b) A nonresident wholesaler shall be licensed by the board prior to shipping, mailing, or
11 delivering dangerous drugs or dangerous devices to a site located in this state.

12 ...

13 (j) The designated representative-in-charge shall be responsible for the nonresident
14 wholesaler’s compliance with state and federal laws governing wholesalers. . . .”

15 11. Section 4301 of the Code states, in part, as follows:

16 “The board shall take action against any holder of a license who is guilty of unprofessional
17 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

18 Unprofessional conduct shall include, but is not limited to, any of the following:

19 ...

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

22 ...

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

27 12. Section 4169 of the Code states, in pertinent part:

28 “(a) A person or entity may not do any of the following:

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(3) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably should have known were misbranded, as defined in Section 111335 of the Health and Safety Code."

13. Code section 651, subdivision (a), provides as follows:

"(a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. A "public communication" as used in this section includes, but is not limited to, communication by means of mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, Internet, or other electronic communication."

14. Section 4341 provides that, "Notwithstanding any other provision of law, prescription drugs or devices may be advertised if the advertisement conforms with the requirements of Section 651."

15. Health and Safety Code section 11255 provides:

"The taking of any order, or making of any contract or agreement, by any traveling representative or employee of any person for future delivery in this state, of any controlled substance constitutes a sale with the meaning of this division."

16. Health and Safety Code section 111335 provides:

"Any drug or device is misbranded if its labeling or packaging does not conform to the requirements of Chapter 4 (commencing section Section 110290)."

17. Health and Safety Code section 111440 provides:

"It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any drug or device that is misbranded."

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1 18. Title 21, Code of Federal Regulations, section 1301.11, provides in part:
2 “(a) Every person who manufactures, distributes, dispenses, imports, or exports any
3 controlled substance or who proposes to engage in the manufacture, distribution, dispensing,
4 importation or exportation of any controlled substance shall obtain a registration unless exempted
5 by law . . .”

6 **COST RECOVERY**

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

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Sold or Offered for Sale Misbranded Drugs)**

13 **[Respondents Superior Medical and Snyder]**

14 20. Respondents Superior Medical and Snyder are subject to disciplinary action under
15 section 4301, subdivisions (j) and (o), in conjunction with Code section 4169, subdivision (a)(3)
16 and Health and Safety Code sections 111335, and/or 111440 in that Respondents sold or offered
17 for sale dangerous drugs that were misbranded. The circumstances are as follows:

- 18 a) From on or about February 28, 2008 through on or about June 4, 2008, Respondents
19 sold or offered for sale to doctors and clinics Medroxyprogesterone 150mg/ml pre-
20 filled syringes¹ that were misbranded with false or misleading labels that read
21 “Medroxy Progst PF (75/0.5mg) ml” or “Medroxy Proge (75/.5) 75/0.5mg” that
22 were manufactured by Advanced Compounding Pharmacy (ACP) located in North
23 Hollywood, California. The drugs were further misbranded in that the drugs were
24 labeled by ACP with a one-year expiration date when they were shipped outside of
25 California and with a 180-day expiration date when they were shipped in California.

26
27 ¹ Medroxyprogesterone Acetate Suspension 150mg/ml prefilled syringes are the generic name for
28 the commercially available drug Depo Provera 150mg/ml prefilled syringes. The drug is a long acting
birth control drug injected every 12 weeks.

1 section 1301.11(a) and Health and Safety Code section 11255, in that Respondents took orders
2 for and/or made contracts or agreements for delivery of controlled substances within California
3 and without a valid registration to do so. The circumstances are as follows:

- 4 a) Between February 29, 2008 and July 24, 2008, Superior Medical Supply, Inc.,
5 located at 11005 Dover Street, Suite 1100, in Westminster, Colorado, was **not**
6 registered with the Drug Enforcement Agency (DEA) to distribute, dispense, import
7 or export any controlled substances.
- 8 b) Between February 29, 2008 and July 24, 2008, Respondents took orders for their
9 customers, *i.e.*, doctors and medical facilities for Schedule CII, III, IV, and V
10 controlled substances and placed the orders with Advanced Compounding
11 Pharmacy. Advanced Compounding Pharmacy drop shipped the orders to
12 Respondents' customers and invoiced Respondents for the controlled substances
13 drop shipped. Respondents paid Advanced Compounding Pharmacy for the order
14 and invoiced the doctors and medical facilities directly for the controlled substances
15 distributed.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 **(Selling Dangerous Drugs from Unlicensed Manufacturer)**

18 **[Respondents Superior Medical and Snyder]**

19 23. Respondents Superior Medical and Snyder are subject to disciplinary action under
20 section 4033, subdivision (a)(1), in that Respondents sold dangerous drugs from an unlicensed
21 manufacturer. The circumstances are as follows:

- 22 a) An investigation conducted on June 19, 2008, showed that Advanced Compounding
23 Pharmacy located in North Hollywood, during the period from January 1, 2008 through
24 June 1, 2008, was an unlicensed manufacturer of sterile injectable drugs. Advanced
25 Compounding Pharmacy sent to Respondents' customers throughout the United States
26 sterile injectable drugs that were brokered through Respondents. Advanced Compounding
27 Pharmacy drop shipped the drugs directly to the customers. Advanced Compounding
28 Pharmacy invoiced and received payment from Respondents, instead of the ultimate

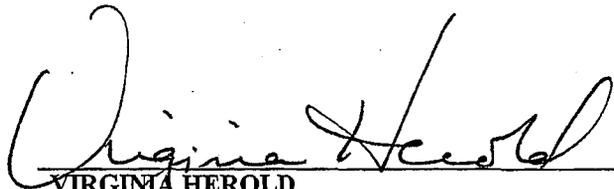
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consumer. Respondents invoiced the customers directly with their profit added. This act constitutes selling dangerous drugs from an unlicensed manufacturer, which is a violation of pharmacy law.

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:

- 1. Revoking or suspending Original Out of State Distributor Permit Number OSD 4574, issued to Respondent Superior Medical Supply Inc., Mark C. Snyder, CEO.
- 2. Revoking or suspending Original Certificate Number EXC 18204, issued to Respondent Jake J. Snyder, Designated Representative.
- 3. Ordering Respondents Superior Medical Supply Inc., Mark C. Snyder, CEO, and Jake J. Snyder, Representative-in-Charge, to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 4. Taking such other and further action as deemed necessary and proper.

DATED: 2/16/11 

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