

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

In the Matter of the Accusation Against:

Case No. 3341

**COUNTY OF SACRAMENTO PRIMARY  
CARE**

4600 Broadway #1500  
Sacramento, CA 95820

Permit No. PHE 46273

Respondent.

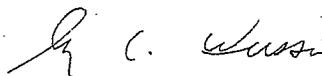
**DECISION AND ORDER**

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 January 7, 2011.

It is so ORDERED on December 8, 2010.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
STANLEY C. WEISSER  
Board President

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 ANAHITA S. CRAWFORD  
Deputy Attorney General  
4 State Bar No. 209545  
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5 P.O. Box 944255  
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Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 3341

13 **COUNTY OF SACRAMENTO PRIMARY**  
14 **CARE**

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

15 4600 Broadway #1500  
16 Sacramento, Ca 95820

17 **Permit No. PHE 46273**

Respondent.

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

20 PARTIES

21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
22 She brought this action solely in her official capacity and is represented in this matter by Edmund  
23 G. Brown Jr., Attorney General of the State of California, by Anahita S. Crawford, Deputy  
24 Attorney General.

25 2. Respondent Sacramento County Primary Care Pharmacy (Respondent) is represented  
26 in this proceeding by attorney Rick Heyer, whose address is Office of the County Counsel, 700 H  
27 Street, Suite 2650, Sacramento, CA 95814.

28 //







1           2.     **Report to the Board**

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

10          3.     **Interview with the Board**

11          Upon receipt of reasonable prior notice, Respondent shall appear in person by an authorized  
12     agent for interviews with the Board or its designee, at such intervals and locations as are  
13     determined by the Board or its designee. Failure to appear for any scheduled interview without  
14     prior notification to Board staff, or failure to appear for two (2) or more scheduled interviews  
15     with the Board or its designee during the period of probation, shall be considered a violation of  
16     probation.

17          4.     **Cooperate with Board Staff**

18          Respondent shall cooperate with the Board's inspection program and with the Board's  
19     monitoring and investigation of Respondent's compliance with the terms and conditions of its  
20     probation. Failure to cooperate shall be considered a violation of probation.

21          5.     **Reimbursement of Board Costs**

22          As a condition precedent to successful completion of probation, Respondent shall pay to the  
23     Board its costs of investigation and prosecution in the amount of \$41,826. Respondent shall be  
24     permitted to pay these costs in a payment plan approved by the Board, with payments to be  
25     completed no later than three months prior to the end of the probation term. There shall be no  
26     deviation from this schedule absent prior written approval by the Board or its designee. Failure to  
27     pay costs by the deadline(s) as directed shall be considered a violation of probation.

28     //

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

3 **6. Probation Monitoring Costs**

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

8 **7. Status of License**

9 Respondent shall, at all times while on probation, maintain current licensure with the  
10 Board. If Respondent's authorized agent submits an application to the Board, and the application  
11 is approved, for a change of location, change of permit or change of ownership, the Board shall  
12 retain continuing jurisdiction over the license, and the Respondent shall remain on probation as  
13 determined by the Board. Failure to maintain current licensure shall be considered a violation of  
14 probation.

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

19 **8. License Surrender While on Probation/Suspension**

20 Following the effective date of this decision, should Respondent discontinue business, or be  
21 otherwise unable to satisfy the terms and conditions of probation, Respondent may tender the  
22 premises license to the Board for surrender. The Board or its designee shall have the discretion  
23 whether to grant the request for surrender or take any other action it deems appropriate and  
24 reasonable. Upon formal acceptance of the surrender of the license, Respondent will no longer be  
25 subject to the terms and conditions of probation.

26 Upon acceptance of the surrender, Respondent shall relinquish the premises wall and  
27 renewal license to the Board within ten (10) days of notification by the Board that the surrender is

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1 accepted. Respondent shall further submit a completed Discontinuance of Business form  
2 according to Board guidelines and shall notify the Board of the records inventory transfer.

3 Respondent shall also, by the effective date of this decision, arrange for the continuation of  
4 care for ongoing patients of the pharmacy by, at minimum, providing a written notice to ongoing  
5 patients that specifies the anticipated closing date of the pharmacy and that identifies one or more  
6 area pharmacies capable of taking up the patients' care, and by cooperating as may be necessary  
7 in the transfer of records or prescriptions for ongoing patients. Within five days of its provision  
8 to the pharmacy's ongoing patients, Respondent's authorized agent shall provide a copy of the  
9 written notice to the Board. For the purposes of this provision, "ongoing patients" mean those  
10 patients for whom the pharmacy has on file a prescription with one or more refills outstanding, or  
11 for whom the pharmacy has filled a prescription within the preceding sixty (60) days.

12 Respondent may not apply for any new licensure from the Board for three (3) years from  
13 the effective date of the surrender. Respondent shall meet all requirements applicable to the  
14 license sought as of the date the application for that license is submitted to the Board.

15 Respondent further stipulates that it shall reimburse the Board for its costs of investigation  
16 and prosecution prior to the acceptance of the surrender.

17 **9. Notice to Employees**

18 Respondent shall, upon or before the effective date of this decision, ensure that all  
19 employees involved in permit operations are made aware of all the terms and conditions of  
20 probation, either by posting a notice of the terms and conditions, circulating such notice, or both.  
21 If the notice required by this provision is posted, it shall be posted in a prominent place and shall  
22 remain posted throughout the probation period. Respondent's authorized agent shall ensure that  
23 any employees hired or used after the effective date of this decision are made aware of the terms  
24 and conditions of probation by posting a notice, circulating a notice, or both. Additionally,  
25 Respondent shall submit written notification to the Board, within fifteen (15) days of the effective  
26 date of this decision, that this term has been satisfied. Failure to submit such notification to the  
27 Board shall be considered a violation of probation.

28

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

4 **10. Posted Notice of Probation**

5 Respondent shall prominently post a probation notice provided by the Board in a place  
6 conspicuous and readable to the public. The probation notice shall remain posted during the  
7 entire period of probation.

8 Respondent shall not, directly or indirectly, engage in any conduct or make any statement  
9 which is intended to mislead or is likely to have the effect of misleading any patient, customer,  
10 member of the public, or other person(s) as to the nature of and reason for the probation of the  
11 licensed entity.

12 Failure to post such notice shall be considered a violation of probation.

13 **11. Violation of Probation**

14 If Respondent has not complied with any term or condition of probation, the Board shall  
15 have continuing jurisdiction over Respondent's license, and probation shall be automatically  
16 extended until all terms and conditions have been satisfied or the Board has taken other actions as  
17 deemed appropriate to treat the failure to comply as a violation of probation, to terminate  
18 probation, and 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 **12. Completion of Probation**

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

1           13.    **Separate File of Records**

2           Respondent shall maintain and make available for inspection a separate file of all records  
3           pertaining to the acquisition, disposition and ending tally on hand of all controlled substances.  
4           Respondent owner shall specify the manner of disposition (e.g., by prescription, due to burglary,  
5           etc.) or acquisition (e.g., from a manufacturer, from another retailer, etc.) of such controlled  
6           substances. Failure to maintain such file or make it available for inspection shall be considered a  
7           violation of probation.

8           14.    **Pharmacy Self-Assessment Report**

9           Within the first full quarter of probation, and on a quarterly basis thereafter, Respondent's  
10          authorized agent shall complete and submit to the Board, on a schedule as directed by the Board  
11          or its designee, a Pharmacy Self-Assessment (Form 17M-13 (Rev 10/08)). Failure to submit  
12          timely reports in a form as directed shall be considered a violation of probation. Any period(s) of  
13          delinquency in submission of reports as directed may be added to the total period of probation.  
14          Moreover, if the final report is not made as directed, probation shall be automatically extended  
15          until such time as the final report is made and accepted by the Board.

16          15.    **Consultant for Pharmacy**

17          The pharmacy shall retain an independent consultant at its own expense who shall be  
18          responsible for reviewing pharmacy operations on a monthly basis, or as determined by the board,  
19          for compliance by Respondent with state and federal laws and regulations governing the practice  
20          of pharmacy and for compliance by Respondent with the obligations of a pharmacist-in-charge.  
21          The consultant shall be a pharmacist licensed by and not on probation with the Board and whose  
22          name shall be submitted to the Board or its designee, for prior approval. Within thirty (30) days  
23          of the effective date of this decision. Failure to timely retain, seek approval of, or ensure timely  
24          reporting by the consultant shall be considered a violation of probation.

25          //  
26          //  
27          //  
28          //

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with our attorney, Rick Heyer. I understand the stipulation and the effect it will have on County of Sacramento Primary Care pharmacy permit number PHE 46273. I have authority to and do hereby enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree, on behalf of County of Sacramento Primary Care, to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 8.27.10

Ann Edwards Buckley  
ANN EDWARDS BUCKLY  
Director of Department of Health and Human Services  
SACRAMENTO COUNTY PRIMARY CARE  
PHARMACY, Authorized Agent

I have read and fully discussed with Respondent Sacramento County Primary Care Pharmacy the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 8-27-10

RICK HEYER  
Attorney for Respondent

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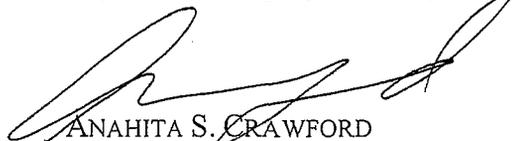
ENDORSEMENT

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: Sept 1, 10

Respectfully Submitted,

EDMUND G. BROWN JR.  
Attorney General of California  
JANICE K. LACHMAN  
Supervising Deputy Attorney General



ANAHITA S. CRAWFORD  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 3341**

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 ANAHITA S. CRAWFORD  
Deputy Attorney General  
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Sacramento, CA 94244-2550  
6 Telephone: (916) 322-8311  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

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12 In the Matter of the Accusation Against:  
13  
14 **COUNTY OF SACRAMENTO PRIMARY**  
**CARE**  
15 **4600 Broadway #1500**  
**Sacramento, Ca 95820**  
**Permit No. PHE 46273,**  
16  
17 **and**  
18 **STEPHEN JAMES GOLKA**  
**75 Sandburg Dr.**  
**Sacramento, Ca 95819**  
19 **Pharmacist License No. RPH 32396,**  
20  
21 **and**  
22 **ROBERT JOHN PAYNE**  
**428 J Street, Ste 610**  
23 **Sacramento, Ca 95814**  
**Pharmacist License No. RPH 26146**  
24 **Respondents.**

Case No. 3341  
**ACCUSATION**

25 Complainant alleges:

26 **PARTIES**

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



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

2 (c) Every pharmacy shall notify the board within 30 days of the date when a  
3 pharmacist ceases to be a pharmacist-in-charge.

4 9. Code section 4301 states in part:

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

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

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

12 10. Code section 4306.5 states, in part:

13 Unprofessional conduct for a pharmacist may include any of the following:

14 (b) Acts or omissions that involve, in whole or in part, the failure to exercise or  
15 implement his or her best professional judgment or corresponding responsibility with  
regard to the dispensing or furnishing of controlled substances, dangerous drugs, or  
16 dangerous devices, or with regard to the provision of services.

17 11. Section 4059 of the Code states:

18 (a) A person may not furnish any dangerous drug, except upon the prescription  
19 of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
pursuant to Section 3640.7. A person may not furnish any dangerous device, except  
20 upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or  
naturopathic doctor pursuant to Section 3640.7.

21 12. Section 4059.5 of the Code states, in part:

22 (b) A dangerous drug or dangerous device transferred, sold, or delivered to a  
23 person within this state shall be transferred, sold, or delivered only to an entity  
licensed by the board, to a manufacturer, or to an ultimate user or the ultimate user's  
24 agent.

25 13. Section 4126.5 of the Code states, in part:

26 (a) A pharmacy may furnish dangerous drugs only to the following:

27 (1) A wholesaler owned or under common control by the wholesaler from  
28 whom the dangerous drug was acquired.

1 (2) The pharmaceutical manufacturer from whom the dangerous drug was  
acquired.

2 (3) A licensed wholesaler acting as a reverse distributor.

3 (4) Another pharmacy or wholesaler to alleviate a temporary shortage of a  
4 dangerous drug that could result in the denial of health care. A pharmacy furnishing  
dangerous drugs pursuant to this paragraph may only furnish a quantity sufficient to  
5 alleviate the temporary shortage.

6 (5) A patient or to another pharmacy pursuant to a prescription or as otherwise  
authorized by law.

7 (6) A health care provider that is not a pharmacy but that is authorized to  
8 purchase dangerous drugs.

9 (7) To another pharmacy under common control.

10 14. Section 4160 of the Code states that (a) a person may not act as a wholesaler of any  
11 dangerous drug or dangerous device unless he or she has obtained a license from the board.

12 15. California Code of Regulations, Title 16, Section 1714 states, in part:

13 (b) Each pharmacy licensed by the board shall maintain its facilities, space,  
14 fixtures, and equipment so that drugs are safely and properly prepared, maintained,  
secured and distributed. The pharmacy shall be of sufficient size and unobstructed  
15 area to accommodate the safe practice of pharmacy.

16 . . . .  
17 (d) Each pharmacist while on duty shall be responsible for the security of the  
prescription department, including provisions for effective control against theft or  
18 diversion of dangerous drugs and devices, and records for such drugs and devices.  
Possession of a key to the pharmacy where dangerous drugs and controlled  
19 substances are stored shall be restricted to a pharmacist.

20 16. Section 4022 of the Code states

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

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

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

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

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17. Section 4043 of the Code states:

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

18. Code section 4307 states:

(a) Any person who has been denied a license or whose license has been revoked or is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a manager, administrator, owner, member, officer, director, associate, or partner of any partnership, corporation, firm, or association whose application for a license has been denied or revoked, is under suspension or has been placed on probation, and while acting as the manager, administrator, owner, member, officer, director, associate, or partner had knowledge of or knowingly participated in any conduct for which the license was denied, revoked, suspended, or placed on probation, shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee as follows:

(1) Where a probationary license is issued or where an existing license is placed on probation, this prohibition shall remain in effect for a period not to exceed five years.

(2) Where the license is denied or revoked, the prohibition shall continue until the license is issued or reinstated.

(b) "Manager, administrator, owner, member, officer, director, associate, or partner," as used in this section and Section 4308, may refer to a pharmacist or to any other person who serves in that capacity in or for a licensee.

(c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code. However, no order may be issued in that case except as to a person who is named in the caption, as to whom the pleading alleges the applicability of this section, and where the person has been given notice of the proceeding as required by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code. The authority to proceed as provided by this subdivision shall be in addition to the board's authority to proceed under Section 4339 or any other provision of law.

COST RECOVERY

19. Code section 125.3 provides, in pertinent part, that the board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation.

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1 COUNTY OF SACRAMENTO PRIMARY CARE

2 FIRST CAUSE FOR DISCIPLINE

3 (Unlawful Furnishing of Dangerous Drugs and Controlled Substances)

4 20. Respondent Sacramento Primary Care is subject to disciplinary action under section  
5 4301, subdivision (j) for unprofessional conduct, in that Respondent Sacramento Primary Care  
6 violated the laws and provisions of the Code regulating dangerous drugs and controlled  
7 substances as set forth in section 4059(a) (furnishing dangerous drugs and devices without a  
8 prescription), section 4059.5, subdivision (b) (dangerous drugs and devices sold  
9 /transferred/delivered to non-board licensed entities, manufacturer or ultimate user) and section  
10 4126.5, subdivision (a) (furnishing dangerous drugs to non-approved entities). The circumstances  
11 are as follows:

12 21. A Pharmacy audit revealed that between or about March 2005 through February  
13 2008, Respondent Sacramento Primary Care illegally furnished bulk dangerous drugs, including  
14 controlled substances, to various locations, including jail facilities, clinics, school  
15 districts/colleges and other locations not permitted to receive such drugs pursuant to Section  
16 4126.5. The locations to which these drugs were furnished did not have a license to obtain,  
17 receive, or maintain the drugs and the drugs provided were not for patient-specific prescriptions.  
18 The wholesale purchase value of bulk drugs furnished illegally to such locations was over  
19 \$5,000,000.

20 SECOND CAUSE FOR DISCIPLINE

21 (Unlicensed Activity)

22 22. Respondent Sacramento Primary Care is subject to disciplinary action under section  
23 4301, subdivision (o) for unprofessional conduct, in that Respondent Sacramento Primary Care  
24 violated the drug wholesaler licensing requirements as set forth in section 4160, subdivision (a)  
25 (acting as a wholesaler without a license). The circumstances are as follows:

26 23. A Pharmacy audit revealed that between or about March 2005 through February 2008  
27 Sacramento County Primary Care Pharmacy illegally furnished bulk dangerous drugs, including  
28 controlled substances, to various locations, including jail facilities clinics, school

1 districts/colleges and other locations, without a required Board wholesaler license (defined in  
2 section 4043), as further set forth in paragraphs 20-21, above.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Inadequate Pharmacy Security)**

5 24. Respondent Sacramento Primary Care is subject to disciplinary action under section  
6 4301, subdivision (o) for unprofessional conduct as defined in California Code of Regulations,  
7 Title 16, Section 1714, subdivision (b), in that Respondent failed to maintain appropriate security  
8 against theft or diversion of dangerous drugs, including records for the drugs.

9 25. A Pharmacy audit revealed that between or about March 2005 through February  
10 2008, there was an unexplained loss of approximately 215,994 hydrocodone/acetaminophen  
11 10/325 tablets, a schedule III controlled substance and dangerous drug. Additionally, in  
12 December 2007, pharmacist Marvin Gibson admitted to stealing approximately 480 tablets of  
13 hydrocodone/acetaminophen combination products for illegal self-administration between  
14 October and December 2007. The loss of the tablets, as well as Mr. Gibson's admitted theft  
15 demonstrate a lack of appropriate pharmacy security.

16 **STEPHEN JAMES GOLKA**

17 26. Respondent Golka received his Pharmacist license on August 25, 1978. He has been  
18 employed as the Pharmacist-in-Charge with Respondent Sacramento Primary Care from April 20,  
19 2007 to present.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(Unlawful Furnishing of Drugs and Controlled Substances)**

22 27. Respondent Golka is subject to disciplinary action under section 4301, subdivision (j)  
23 for unprofessional conduct, in that Respondent Golka violated the laws and provisions of the  
24 Code regulating dangerous drugs and controlled substances as set for in section 4059(a)  
25 (furnishing dangerous drugs and devices without a prescription), section 4059.5, subdivision (b)  
26 (dangerous drugs and devices sold /transferred/delivered to non-board licensed entities,  
27 manufacturer or ultimate user), and section 4126.5, subdivision (a) (furnishing dangerous drugs to  
28 non-approved entities), as more fully set forth in paragraphs 20-21, above.

1 FIFTH CAUSE FOR DISCIPLINE

2 (Failure to Exercise Professional Judgment)

3 28. Respondent Golka is subject to disciplinary action under sections 4301 for  
4 unprofessional conduct as defined in section 4306.5, subdivision (b), in that, during Respondent's  
5 status as Pharmacist-in-Charge, Respondent Golka failed to exercise or implement his best  
6 professional judgment or corresponding responsibility with regard to the dispensing or furnishing  
7 of controlled substances, dangerous drugs, or dangerous devices. Despite knowing that  
8 Respondent Sacramento Primary Care's activities of selling bulk controlled substances and  
9 dangerous drugs to unlicensed entities were illegal, Respondent Golka allowed such activities to  
10 continue, as further set forth in paragraph 20-23, above.

11 SIXTH CAUSE FOR DISCIPLINE

12 (Unlicensed Activity)

13 29. Respondent Stephen James Golka is subject to disciplinary action under section 4301,  
14 subdivision (o) for unprofessional conduct, in that as Pharmacist-in-Charge for Respondent  
15 Sacramento Primary Care, Respondent Golka violated the drug wholesaler licensing requirements  
16 as set for in section 4160, subdivision (a) (acting as a wholesaler without a license), as more fully  
17 set forth in paragraphs 20-23, above.

18 SEVENTH CAUSE FOR DISCIPLINE

19 (Inadequate Pharmacy Security)

20 30. Respondent Golka is subject to disciplinary action under section 4301, subdivision (o)  
21 for unprofessional conduct as defined in California Code of Regulations, Title 16, Section 1714,  
22 subdivision (d), in that Respondent failed to maintain appropriate security against theft or  
23 diversion of dangerous drugs, including records for the drugs.

24 31. A Pharmacy audit revealed that between or about March 2005 through February  
25 2008, there was an unexplained loss of approximately 215,994 hydrocodone/acetaminophen  
26 10/325 tablets, a schedule III controlled substance and dangerous drug. Additionally in  
27 December 2007, pharmacist Marvin Gibson admitted to stealing approximately 480 tablets of  
28 hydrocodone/acetaminophen combination products for illegal self-administration between

1 October and December 2007. The loss of the tablets from April 20, 2007 to February 2008, as  
2 well as Mr. Gibson's admitted theft, occurred during Respondent Golka's status as Pharmacist-in-  
3 Charge.

4 **ROBERT JOHN PAYNE**

5 32. Respondent Payne received his license on July 24, 1969. He was employed as the  
6 Pharmacist-in-Charge with Respondent County of Sacramento Primary Care from December 8,  
7 2003 through March 23, 2007.

8 **EIGHTH CAUSE FOR DISCIPLINE**

9 **(Unlawful Furnishing of Drugs and Controlled Substances)**

10 33. Respondent Payne is subject to disciplinary action under section 4301, subdivision (j)  
11 for unprofessional conduct, in that Respondent Payne violated the laws and provisions of the  
12 Code regulating dangerous drugs and controlled substances as set for in section 4059(a)  
13 (furnishing dangerous drugs and devices without a prescription), section 4059.5, subdivision (b)  
14 (dangerous drugs and devices sold /transferred/delivered to non-board licensed entities,  
15 manufacturer or ultimate user) and section 4126.5, subdivision (a) (furnishing dangerous drugs to  
16 non-approved entities), as more fully set forth in paragraphs 20-23, above.

17 **NINTH CAUSE FOR DISCIPLINE**

18 **(Unlicensed Activity)**

19 34. Respondent Robert John Payne is subject to disciplinary action under section 4301,  
20 subdivision (o) for unprofessional conduct, in that Respondent violated the board's drug  
21 wholesaler licensing requirements as set for in section 4160, subdivision (a) (acting as a  
22 wholesaler without a license), as more fully set forth in paragraphs 19-20, above.

23 **TENTH CAUSE FOR DISCIPLINE**

24 **(Failure to Exercise Professional Judgment)**

25 35. Respondent Payne is subject to disciplinary action under sections 4301 for  
26 unprofessional conduct as defined in section 4306.5, subdivision (b), in that, during Respondent's  
27 status as Pharmacist-in-Charge, Respondent Payne to exercise or implement his best professional  
28 judgment or corresponding responsibility with regard to the dispensing or furnishing of controlled

1 substances, dangerous drugs; or dangerous devices. Despite knowing that Respondent  
2 Sacramento Primary Care's activities of selling bulk controlled substances and dangerous drugs  
3 to unlicensed entities were illegal, Respondent Payne allowed such activities to continue, as  
4 further set forth in paragraph 20-23, above.

5 **ELEVENTH CAUSE FOR DISCIPLINE**

6 **(Inadequate Pharmacy Security)**

7 36. Respondent Robert John Payne is subject to disciplinary action under section 4301,  
8 subdivision (o) for unprofessional conduct as defined in California Code of Regulations, Title 16,  
9 Section 1714, subdivision (d), in that Respondent failed to maintain appropriate security against  
10 theft or diversion of dangerous drugs, including records for the drugs.

11 37. A Pharmacy audit revealed that between or about March 2005 through February  
12 2008, there was an unexplained loss of approximately 215,994 hydrocodone/acetaminophen  
13 10/325 tablets, a schedule III controlled substance and dangerous drug. The loss of tablets from  
14 December 8, 2003 through March 23, 2007 occurred during Respondent Payne's status as  
15 Pharmacist-in-Charge.

16 **OTHER MATTERS**

17 38. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License Number  
18 RPH 32396 issued to Stephen James Golka, Respondent Golka shall be prohibited from serving  
19 as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee.

20 39. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License  
21 Number RPH 26146 issued to Robert John Payne, Respondent Payne shall be prohibited from  
22 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a  
23 licensee.

24 **PRAYER**

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

27 1. Revoking or suspending Permit Number PHE 46273, issued to County of Sacramento  
28 Primary Care.

1           2.    Revoking or suspending Pharmacist License Number RPH 32396, issued to Stephen  
2 James Golka.

3           3.    Prohibiting Stephen James Golka from serving as a manager, administrator, owner,  
4 member, officer, director, associate, or partner of a licensee during the period that discipline is  
5 imposed on Pharmacist License Number RPH 32396 issued to Stephen James Golka.

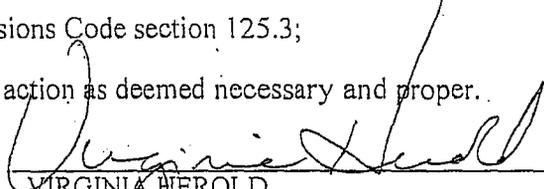
6           4.    Revoking or suspending Pharmacist License Number RPH 26146, issued to Robert  
7 John Payne.

8           5.    Prohibiting Robert John Payne from serving as a manager, administrator, owner,  
9 member, officer, director, associate, or partner of a licensee during the period that discipline is  
10 imposed on Pharmacist License Number RPH 26146 issued to Robert John Payne.

11          6.    Ordering County of Sacramento Primary Care, Stephen James Golka and Robert John  
12 Payne to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of  
13 this case, pursuant to Business and Professions Code section 125.3;

14          7.    Taking such other and further action as deemed necessary and proper.

15 DATED: 12/16/09



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

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