

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

In the Matter of the Accusation Against:

**POKEY BONES LLC DBA FAAST
PHARMACY; LISA MARIE FAAST,
PHARMACIST-IN-CHARGE
3400 Colloway Drive #701
Bakersfield, CA 93312
Original Permit No. PHY 47454**

AND

**LISA MARIE FAAST
3400 Calloway Drive #701
Bakersfield, CA 93312
Original Pharmacist License No. RPH 52905**

Respondent.

Case No. 3781

**STIPULATED SETTLEMENT
AND DISCIPLINARY ORDER**

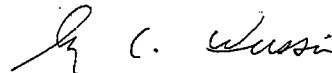
DECISION AND ORDER

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

This decision shall become effective on April 23, 2012.

It is so ORDERED on March 23, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 MICHAEL B. BROWN
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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 3781

13 **POKEY BONES LLC DBA FAAST**
14 **PHARMACY; LISA MARIE FAAST,**
15 **PHARMACIST-IN-CHARGE**
3400 Colloway Drive #701
Bakersfield, CA 93312
16 **Pharmacy Permit No. PHY 47454**

STIPULATED SETTLEMENT
AND DISCIPLINARY ORDER

17 Respondent,

18 AND

19 **LISA MARIE FAAST**
3400 Calloway Drive #701
20 Bakersfield, CA 93312
Pharmacist License No. RPH 52905

21 Respondent.

22
23 In the interest of a prompt and speedy settlement of this matter, consistent with the public
24 interest and the responsibility of the Board of Pharmacy, Department of Consumer Affairs, the
25 parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will be
26 submitted to the Board of Pharmacy for approval and adoption as the final disposition of
27 Accusation No. 3781 filed against Respondents Pokey Bones LLC dba Faast Pharmacy and Lisa
28 Marie Faast.

1 **PARTIES**

2 1. Virginia K. Herold ("Complainant") is the Executive Officer of the California State
3 Board of Pharmacy, Department of Consumer Affairs. She brings this action solely in her official
4 capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of
5 California, by Michael Brown, Deputy Attorney General.

6 2. Pokey Bones LLC dba Faast Pharmacy and Lisa Marie Faast ("Respondents") are
7 both represented in this proceeding by attorney Adam Brown from the Law Offices of Brown &
8 Brown in Torrance, CA.

9 3. On or about March 10, 2006, the Board of Pharmacy issued Pharmacy License No.
10 PHY 47454 to Pokey Bones LLC dba Faast Pharmacy ("Respondent Faast Pharmacy"). The
11 Pharmacy License was in full force and effect at all times relevant to the charges brought in
12 Accusation No. 3781. The license will expire on March 1, 2012, unless renewed.

13 4. On or about September 6, 2001, the Board issued Pharmacist License No. RPH
14 52905 to Lisa Marie Faast ("Respondent Lisa Faast"). The Pharmacist License was in full force
15 and effect at all times relevant to the charges brought in Accusation No. 3781. The license will
16 expire on February 28, 2013, unless renewed.

17 5. Respondent Lisa Faast is and has been the Pharmacist-in-Charge for Respondent
18 Faast Pharmacy since March 10, 2006.

19 **JURISDICTION**

20 6. On July 19, 2010, Accusation No. 3781 was filed before the Board of Pharmacy,
21 Department of Consumer Affairs, and is currently pending against Respondents.

22 7. On August 6, 2010, Respondents were properly served with a copy of the Accusation
23 No. 3781 and all other statutorily required documents. Respondents filed a timely Notice of
24 Defense contesting the Accusation. A copy of Accusation No. 3781 is attached as Exhibit "A"
25 and is incorporated herein by reference.

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

4 14. The parties understand and agree that a facsimile copy of this stipulation, including
5 facsimile signatures thereto, shall have the same force and effect as the original.

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

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

15 **ORDER**

16 IT IS HEREBY ORDERED that Citation Nos. CI 2008 37764, CI 2007 36929 and CI 2009
17 44076 issued to Respondent Faast Pharmacy and Citation Nos. CI 2008 40138, 2008 39770 and
18 CI 2010 46831 issued to Respondent Lisa Faast, as well as the abatements and fines ordered by
19 those citations, are withdrawn and dismissed.

20 **DISCIPLINARY ORDER**

21 IT IS HEREBY ORDERED that Pharmacy License No. PHY 47454 issued to Pokey Bones
22 LLC dba Faast Pharmacy is revoked, and Pharmacist License No. RPH 52905, issued to Lisa
23 Marie Faast, is also revoked. However, each revocation is stayed and each Respondent is placed
24 on probation for three (3) years on the following terms and conditions.

25 **TERMS APPLICABLE TO BOTH RESPONDENTS**

26 **1. Payment of Civil Penalties**

27 Respondents shall pay civil penalties to the Board of Pharmacy in the amount and on such
28 terms as specified below. Respondents understand and agree that such civil penalties are

1 administrative fines pursuant to 11 U.S.C. § 523(a)(7), and as such are not dischargeable in
2 bankruptcy. Respondents further understand and agree that the filing of bankruptcy by either or
3 both Respondents shall not relieve either Respondent of the obligation to pay the balance of the
4 civil penalties to the Board. Respondents shall be jointly and severally liable for payment to the
5 Board of \$100,000.00 (One Hundred Thousand Dollars) in civil penalties. Respondents shall pay
6 \$50,000.00 (Fifty Thousand Dollars) on or before the effective date of this decision, and shall
7 thereafter make ten (10) quarterly payments of \$5,000.00 (Five Thousand Dollars) every ninety
8 (90) days until the entire balance is paid in full. Respondents may pay the full remaining balance
9 due at any time, and may make extra payments. Aside from such expedited payment, there shall
10 be no deviation from this schedule absent prior written approval by the Board of Pharmacy or its
11 designee. Failure to pay the civil penalties by the deadlines as directed shall be considered a
12 violation of probation.

13 Further, absent prior written approval by the Board or its designee, neither Respondent may
14 successfully complete probation until this amount is paid in full. Each Respondent is responsible
15 for payment of the full amount and neither may claim to owe only a portion or a share.

16 **2. Community Services Program - Testimonial**

17 Respondents have authored a letter describing their incentives to participate and their level
18 of participation in filling and/or dispensing internet prescriptions, and detailing the consequences
19 of this participation for them, their families, the public health, and the profession, what they have
20 learned from this experience, and what they would advise others who are approached to fill or
21 dispense internet prescriptions. The letter is attached hereto as Exhibit "B", is incorporated herein
22 by reference, and is part of Respondents' public record of discipline with the Board of Pharmacy.
23 The Board of Pharmacy may print, reprint, quote, or make other use of this letter in its
24 communications and/or on its website.

25 **3. Obey All Laws**

26 Each Respondent shall obey all state and federal laws and regulations. Each Respondent
27 shall report any of the following occurrences to the board, in writing, within seventy-two (72)
28 hours of such occurrence:

- 1 • an arrest or issuance of a criminal complaint for violation of any provision of the
2 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
substances laws
- 3 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
4 criminal complaint, information or indictment
- 5 • a conviction of any crime
- 6 • discipline, citation, or other administrative action filed by any state or federal agency
7 which involves either of Respondents' licenses or which is related to the practice of
pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
for any drug, device or controlled substance.

8 Failure to timely report such occurrence(s) shall be considered a violation of probation.

9 **4. Report to the Board**

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

19 **5. Interview with the Board**

20 Upon receipt of reasonable prior notice, each Respondent shall appear in person for
21 interviews with the Board of Pharmacy or its designee, at such intervals and locations as are
22 determined by the Board of Pharmacy or its designee. The owner or officer of Respondent Faast
23 Pharmacy shall make the appearance on behalf of Respondent Faast Pharmacy. Failure to appear
24 for any scheduled interview without prior notification to the Board of Pharmacy staff, or failure to
25 appear for two (2) or more scheduled interviews during the period of probation, shall be
26 considered a violation of probation.

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1 **6. Cooperate with Board Staff**

2 Each Respondent shall cooperate with the Board of Pharmacy's inspection program and
3 with the Board of Pharmacy's monitoring and investigation of Respondents' compliance with the
4 terms and conditions of their probation(s). Failure to cooperate shall be considered a violation of
5 probation.

6 **7. Reimbursement of Board Costs**

7 Reimbursement of costs per Business and Professions Code section 125.3 is waived.

8 **8. Probation Monitoring Costs**

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

13 **9. Status of License**

14 Each Respondent shall, at all times while on probation, maintain an active, current license
15 with the Board of Pharmacy, including any period during which suspension or probation is tolled.
16 Failure to maintain an active, current license shall be considered a violation of probation. If
17 either Respondent's license expires or is cancelled by operation of law or otherwise at any time
18 during the period of probation, including any extensions thereof due to tolling or otherwise, upon
19 renewal or reapplication that Respondent's license shall be subject to all terms and conditions of
20 this probation not previously satisfied.

21 **10. License Surrender While on Probation/Suspension**

22 Following the effective date of this decision, should either Respondent cease to practice due
23 to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
24 that Respondent may tender its license to the Board of Pharmacy for surrender. The Board of
25 Pharmacy or its designee shall have the discretion whether to grant the request for surrender or
26 take any other appropriate and reasonable action. Upon formal acceptance of the surrender of the
27 license, Respondent will no longer be subject to the terms and conditions of probation. This
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1 surrender constitutes a record of discipline and shall become a part of the Respondent's license
2 history with the Board of Pharmacy.

3 Within ten (10) days of notification by the Board of Pharmacy that the surrender is
4 accepted, Respondent shall relinquish its pocket and wall licenses to the Board of Pharmacy.
5 Upon surrender, Respondent may not reapply for any license from the Board of Pharmacy 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 of submitted to the Board of Pharmacy, including
8 any outstanding costs.

9 **11. Violation of Probation**

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

15 If either Respondent violates probation in any respect, the Board of Pharmacy, after giving
16 Respondent notice and an opportunity to be heard, may revoke probation as to that Respondent
17 and carry out the disciplinary order that was stayed. If a petition to revoke probation or an
18 accusation is filed during probation, the Board of Pharmacy shall have continuing jurisdiction and
19 the period of probation shall be automatically extended until the petition to revoke probation or
20 accusation is heard and decided.

21 **12. Completion of Probation**

22 Upon written notice by the Board of Pharmacy or its designee indicating successful
23 completion of probation, the successfully-completing Respondent's license will be fully restored.

24 **ADDITIONAL TERMS APPLICABLE TO RESPONDENT**
25 **POKEY BONES LLC DBA FAAST PHARMACY**

26 **13. Notice to Employees**

27 On or before the effective date of this decision, Respondent Faast Pharmacy shall ensure
28 that all its employees are made aware of the terms and conditions of Respondent Faast

1 Pharmacy's probation, either by posting a notice of the terms and conditions, circulating such
2 notice, or both. If the notice is posted, it shall be posted in a prominent place and shall remain
3 posted throughout the probation period. Respondent Faast Pharmacy shall also ensure that all
4 persons employed after the effective date of this decision are made aware of the terms and
5 conditions of Respondent Faast Pharmacy's probation by posting a notice, circulating a notice, or
6 both. Respondent Faast Pharmacy shall submit written notification to the Board of Pharmacy,
7 within fifteen (15) days of the effective date of this decision, that this term has been satisfied.
8 Failure to timely post or provide notice, or to timely submit notification to the Board of
9 Pharmacy, shall be considered a violation of probation. "Employees" as used in this provision
10 includes all full-time, part-time, volunteer, temporary and relief employees or independent
11 contractors employed or hired at any time during Respondent Faast Pharmacy's probation period.

12 **14. Owners and Officers: Knowledge of the Law**

13 Within thirty (30) days after the effective date of this decision, Respondent Faast Pharmacy
14 shall provide signed and dated statements from its owners, including any owner or holder of ten
15 percent (10%) or more of the interest in Respondent or Respondent's stock, and any officer. The
16 statements shall declare under penalty of perjury that said individuals have read and are familiar
17 with the state and federal laws and regulations governing the practice of pharmacy. The failure to
18 timely provide said statements under penalty of perjury shall be considered a violation of
19 probation.

20 **15. Posted Notice of Probation**

21 Respondent Faast Pharmacy shall prominently post a probation notice provided by the
22 Board of Pharmacy in a place conspicuous and readable by the public. The probation notice shall
23 remain posted during the entire period of probation. Respondents shall not directly or indirectly,
24 engage in any conduct or make any statement that is intended to mislead or is likely to have the
25 effect of misleading any patient, customer, member of the public, or other person as to the nature
26 of and reason for the probation of the licensed entity. Failure to timely post such notice shall be
27 considered a violation of probation.

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ADDITIONAL TERMS APPLICABLE TO RESPONDENT
LISA MARIE FAAST

16. Continuing Education

Respondent Lisa Faast shall provide evidence of efforts to maintain skill and knowledge as a Pharmacist as directed by the Board of Pharmacy or its designee.

17. Notice to Employers

During the period of probation, Respondent Lisa Faast shall notify all present and prospective employers of the decision in Accusation No. 3781 and the terms, conditions, and restrictions imposed on Respondent Lisa Faast by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of Respondent Lisa Faast undertaking any new employment, Respondent Lisa Faast shall cause her direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's tenure of employment) and owner to report to the Board of Pharmacy in writing acknowledging that the listed individual(s) has/have read the decision in Accusation No. 3781 and all the terms and conditions imposed thereby. It shall be Respondent Lisa Faast's responsibility to ensure that her employer(s) and/or supervisor submit the timely acknowledgments to the Board of Pharmacy. If Respondent Lisa Faast works for or is employed by or through a pharmacy employment service, Respondent Lisa Faast must notify her direct supervisor, pharmacist-in-charge, and owner at every entity licensed by the Board of Pharmacy of the terms and conditions of the decision in Accusation No. 3781 in advance of Respondent Lisa Faast commencing work at each licensed entity. A record of this notification must be provided to the Board of Pharmacy upon request.

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of Respondent Lisa Faast undertaking any new employment by or through a pharmacy employment service, Respondent Lisa Faast shall cause her direct supervisor with the pharmacy employment service to report to the Board of Pharmacy in writing acknowledging he/she has read the decision in Accusation No. 3781 and the terms and conditions imposed thereby. It shall be Respondent Lisa Marie Faast's responsibility to ensure her employer(s) and/or supervisor(s)

1 submit timely acknowledgment(s). "Employment" within the meaning of this provision shall
2 include any full-time, part-time, temporary, relief or pharmacy management service as a
3 pharmacist or any position for which a pharmacist license is a requirement or criterion for
4 employment, whether the respondent is an employee, independent contractor or volunteer.

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

8 **18. Notification of a Change in Employment, Name, Address, or Phone**

9 Respondent Lisa Faast shall notify the board in writing within ten (10) days of any change
10 of employment. Said notification shall include the reasons for leaving, the address of the new
11 employer, the name of the supervisor and owner, and the work schedule. Respondent Lisa Faast
12 shall further notify the board in writing within ten (10) days of a change in name, residence
13 address, mailing address, or phone number.

14 Failure to timely notify the Board of Pharmacy of any change in employer, name, address
15 or phone number shall be considered a violation of probation.

16 **19. Tolling of Probation**

17 Except during periods of suspension, Respondent Lisa Faast shall at all times while on
18 probation, be employed as a pharmacist in California for a minimum of forty (40) hours per
19 calendar month. Any month during which this minimum is not met shall toll the period of
20 probation, i.e., the period of probation shall be extended by one month for each month during
21 which this minimum is not met. During any such period of tolling of probation, Respondent Lisa
22 Faast must nonetheless comply with all terms and conditions of probation.

23 Should Respondent Lisa Faast, regardless of residency, for any reason (including vacation)
24 cease practicing as a pharmacist for a minimum of forty (40) hours per calendar month in
25 California, Respondent Lisa Faast must notify the Board of Pharmacy in writing within ten (10)
26 days of the cessation of practice, and must further notify the Board of Pharmacy in writing within
27 ten (10) days of the resumption of practice. Any failure to provide such notification(s) shall be
28 considered a violation of probation.

1 It is a violation of probation for Respondent Lisa Faast's probation to remain tolled pursuant
2 to the provisions of this condition for a total period, counting consecutive and non-consecutive
3 months, exceeding thirty-six (36) months.

4 "Cessation of practice" means any calendar month during which Respondent is not
5 practicing as a pharmacist for at least forty (40) hours, as defined by Business and
6 Professions Code section 4000 et seq.

6 "Resumption of practice" means any calendar month during which Respondent
7 practices as a pharmacist for at least forty (40) hours as a pharmacist as defined by
8 Business and Professions Code section 4000 et seq.

8 **20. Limitations on Supervision, Being Pharmacist-in-Charge, and Consultancy**

9 During the period of probation, Respondent Lisa Marie Faast shall not supervise any intern
10 pharmacist, or be the designated representative-in-charge of any entity licensed by the Board of
11 Pharmacy, nor serve as a consultant to any entity licensed by the Board of Pharmacy.
12 Assumption of any such unauthorized supervision responsibilities shall be considered a violation
13 of probation.

14 Respondent Lisa Faast may be a pharmacist-in-charge. However, if Respondent Lisa Faast
15 is a pharmacist-in-charge during the period of probation, Respondent Lisa Faast shall retain an
16 independent consultant at her own expense who shall be responsible for reviewing pharmacy
17 operations on a quarterly basis for compliance with state and federal laws and regulations
18 governing the practice of pharmacy and for compliance with the obligations of a pharmacist-in-
19 charge. The consultant shall be a pharmacist licensed by and not on probation with the Board of
20 Pharmacy and whose name shall be submitted to the Board of Pharmacy or its designee, for prior
21 approval, within thirty (30) days of the effective date of this decision. Respondent Lisa Faast
22 shall not be a pharmacist-in-charge at more than one pharmacy or at any pharmacy of which she
23 is not an owner (10% or more). Failure to timely retain, seek approval of, or ensure timely
24 reporting by the consultant shall be considered a violation of probation.

25 **21. Ethics Course**

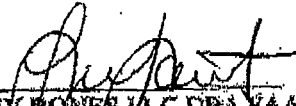
26 Within sixty (60) calendar days of the effective date of this decision, Respondent Lisa
27 Faast shall enroll in a course in ethics, at Respondent Lisa Faast's expense, approved in advance
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1 by the board or its designee. Failure to initiate the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


3 Respondent Lisa Faast shall submit a certificate of completion to the board or its designee
4 within five days after completing the course.

5 ACCEPTANCE

6 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
7 discussed it with my attorney Adam Brown. I understand the stipulation and the effect it has on
8 my Pharmacy License. I enter into this settlement voluntarily, knowingly, and intelligently, and
9 agree to be bound by the Decision and Order of the Board of Pharmacy.

10
11 DATED: 11/28/11 
12 POKEY BONES LLC DBA YAAST PHARMACY
13 By: LISA MARIE FAAST, Owner
14 Respondent

15 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
16 discussed it with my attorney Adam Brown. I understand the stipulation and the effect it has on
17 my Pharmacist License. I enter into this settlement voluntarily, knowingly, and intelligently, and
18 agree to be bound by the Decision and Order of the Board of Pharmacy.

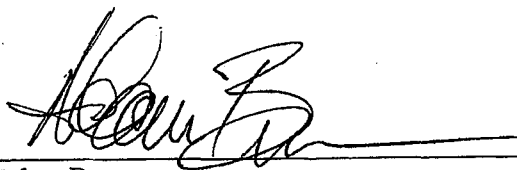
19
20 DATED: 11/28/11 
21 LISA MARIE FAAST
22 Respondent

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

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DATED: 12-5-11



Adam Brown
Law Office of Brown & Brown
Attorney for Respondents


ENDORSEMENT

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

Dated: ^{December} November 5, 2011

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GLORIA A. BARRIOS
Supervising Deputy Attorney General



MICHAEL B. BROWN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 3781

1 EDMUND G. BROWN JR.
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2 GLORIA A. BARRIOS
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7 Attorneys for Complainant

8 **BEFORE THE**
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14 **PHARMACY; LISA MARIE FAAST,**
15 **PHARMACIST-IN-CHARGE**
16 3400 Colloway Drive #701
Bakersfield, CA 93312

ACCUSATION

17 **Pharmacy Permit No. PHY 47454**

Respondent,

18 **AND**

19 **LISA MARIE FAAST**
3400 Colloway Drive #701
Bakersfield, CA 93312

20 **Pharmacist License No. RPH 52905**

21 Respondent.

22 Complainant alleges:

23 PARTIES

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

27 2. On or about March 10, 2006, the Board issued Pharmacy License No. PHY 47454 to
28 Pokey Bones LLC dba Faast Pharmacy ("Respondent Faast Pharmacy"). The Pharmacy License

1 was in full force and effect at all times relevant to the charges brought herein and expires on
2 March 1, 2011, unless renewed.

3 3. On or about September 6, 2001, the Board issued Pharmacist License No. RPH 52905
4 to Lisa Marie Faast ("Respondent L. Faast"). The Pharmacist License was in full force and effect
5 at all times relevant to the charges brought herein and will expire on February 28, 2011, unless
6 renewed.

7 4. The Board records indicate Respondent Lisa Marie Faast is and has been the
8 Pharmacist-in-Charge for Respondent Faast Pharmacy since March 10, 2006.

9 JURISDICTION

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

13 6. Section 4005 of the Code provides that the Board may adopt rules and regulations, as
14 may be necessary for the protection of the public. Included therein shall be the right to adopt
15 rules and regulations as follows: for the proper and more effective enforcement and
16 administration of this chapter; pertaining to the practice of pharmacy; and pertaining to
17 establishments wherein any drug or device is compounded, prepared, furnished, or dispensed.

18 7. Section 4011 of the Code provides that the Board shall administer and enforce both
19 the Pharmacy Law (Bus. & Prof. Code, § 4000 et seq.) and the Uniform Controlled Substances
20 Act (Health & Safety Code, § 11000 et seq.).

21 8. Section 4113(b) of the Code states: "The pharmacist-in-charge shall be responsible
22 for a pharmacy's compliance with all state and federal laws and regulations pertaining to the
23 practice of pharmacy."

24 9. Section 4300(a) of the Code provides that every license issued by the Board may be
25 suspended or revoked.

26 10. Section 4402(a) of the Code provides that any pharmacist license that is not renewed
27 within three years following its expiration may not be renewed, restored, or reinstated and shall
28 be canceled by operation of law at the end of the three-year period.

1 11. Section 4402(e) of the Code provides that any other license issued by the Board may
2 be canceled by the Board if not renewed within 60 days after its expiration, and any license
3 canceled in this fashion may not be reissued but will instead require a new application to seek
4 reissuance.

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

9 STATUTORY AND REGULATORY PROVISIONS

10 13. Section 4301 of the Code provides, in pertinent part, "The board shall take action
11 against any holder of a license who is guilty of unprofessional conduct or whose license has been
12 procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall
13 include, but is not limited to, any of the following:

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

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

20 14. Section 4067(a) of the Code provides, in pertinent part, that no person or entity shall
21 dispense or furnish, or cause to be dispensed or furnished, dangerous drugs or dangerous devices,
22 as defined in Section 4022 of the Code, on the Internet for delivery to any person in this state
23 without a prescription issued pursuant to a good faith prior examination of a human or animal for
24 whom the prescription is meant if the person or entity either knew or reasonably should have
25 known that the prescription was not issued pursuant to a good faith prior examination of a human
26 or animal, or if the person or entity did not act in accordance with Section 1761 of Title 16 of the
27 California Code of Regulations. A "good faith prior examination" includes the requirements for a
28

1 physician and surgeon in Section 2242 of the Code and the requirements for a veterinarian in
2 Section 2032.1 of Title 16 of the California Code of Regulations.

3 15. Health and Safety Code section 11165 provides, in pertinent part, for establishment
4 and maintenance of a Controlled Substance Utilization Review and Evaluation System (CURES)
5 for the electronic monitoring of prescribing and dispensing of Schedule II, III, and IV controlled
6 substances, and requires, in pertinent part, that for each prescription for a Schedule II, III, or IV
7 controlled substance, the dispensing pharmacy or clinic transmit a report to the Department of
8 Justice with specific information on the patient, prescriber, controlled substance, and prescription.

9 16. California Code of Regulations, title 16, section 1716, states in pertinent part:

10 "Pharmacists shall not deviate from the requirements of a prescription except upon the prior
11 consent of the prescriber or to select the drug product in accordance with Section 4073. . . ."

12 17. California Code of Regulations, title 16, section 1717(d) states: "A pharmacist may
13 furnish a drug or device pursuant to a written or oral order from a prescriber licensed in a State
14 other than California in accordance with Business and Professions Code section 4005."

15 18. California Code of Regulations, title 16, section 1761, states:

16 (a) No pharmacist shall compound or dispense any prescription which contains any
17 significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any
18 such prescription, the pharmacist shall contact the prescriber to obtain the information needed to
19 validate the prescription.

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

23 19. Section 4067(b) of the Code provides, in pertinent part, that a person or entity that commits
24 a violation of this section is subject to either a fine of up to twenty-five thousand dollars
25 (\$25,000) per occurrence pursuant to a citation issued by the board or a civil penalty of twenty-
26 five thousand dollars (\$25,000) per occurrence.

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1 20. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
2 administrative law judge to direct a licensee found to have committed a violation of the licensing
3 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

4 21. Section 4306.5 of the Code states:

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

5 (a) Acts or omissions that involve, in whole or in part, the inappropriate exercise of
6 his or her education, training, or experience as a pharmacist, whether or not the act
7 or omission arises in the course of the practice of pharmacy or the ownership,
management, administration, or operation of a pharmacy or other entity licensed by
the board.

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

12 (c) Acts or omissions that involve, in whole or in part, the failure to consult
13 appropriate patient, prescription, and other records pertaining to the performance of
any pharmacy function.

14 (d) Acts or omissions that involve, in whole or in part, the failure to fully maintain
15 and retain appropriate patient-specific information pertaining to the performance of
any pharmacy function.

16 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

17 22. Section 4021 of the Code provides that a "controlled substance" means any substance
18 listed in Schedules I through V contained in Health and Safety Code section 11053 et seq.

19 23. Section 4022 of the Code states:

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

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

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

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

27 24. **Cialis** is a brand name for **Tadalafil**, a dangerous drug pursuant to Business and
28 Professions Code section 4022. It is used in the treatment of erectile dysfunction.

 25. **Viagra** is a brand name for **Sildenafil citrate**, a dangerous drug pursuant to Business
and Professions Code section 4022. It is used in the treatment of erectile dysfunction.

 26. **Butalbital** is a barbiturate, a dangerous drug pursuant to Business and Professions
Code section 4022. It is commonly prescribed for the treatment of pain.

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1 27. **Tramadol** is a synthetic analgesic opiate, a dangerous drug pursuant to Business and
2 Professions Code section 4022. It is a narcotic-like pain reliever used for treating moderate to
3 moderately severe pain.

4 28. **Ultram** is a brand name for Tramadol, a centrally-acting analgesic, a dangerous drug
5 pursuant to Business and Professions Code section 4022. Tramadol is used for treating moderate
6 to moderately severe pain.

7 29. **Ultracet** is a brand name for **Tramadol**, a dangerous drug pursuant to Business and
8 Professions Code section 4022. Tramadol is an analgesic and used to treat the management of
9 moderate to moderately severe pain.

10 30. **Fioricet** is a brand name and made from the combination of **Butalbital** a barbiturate,
11 **Acetaminophen**, and **Caffeine**. It is a dangerous drug pursuant to Business and Professions
12 Code section 4022 and is used to treat tension headaches that are caused by muscle contractions.

13 31. **Flexeril** is a brand name for **Cyclobenzaprine**, a dangerous drug pursuant to
14 Business and Professions Code section 4022. It is a muscle relaxant drug.

15 32. **Omnipen** is a brand name for **Ampicillin**, a dangerous drug pursuant to Business and
16 Professions Code 4022. It belongs to a class of antibiotics called penicillins and is for the
17 treatment of bacterial infections.

18 33. **Amoxicillin** is a semisynthetic penicillin antibiotic and a dangerous drug pursuant to
19 Business and Professions Code section 4022. It is used to used to treat bacterial infections.

20 34. **Soma** is a brand name for **Carisoprodol**, a centrally-acting skeletal muscle relaxant
21 and a dangerous drug pursuant to Business and Professions Code section 4022.

22

23 **CAUSES FOR DISCIPLINE, AS TO BOTH RESPONDENTS**

24 FIRST CAUSE FOR DISCIPLINE

25 (Improper Dispensing or Furnishing Dangerous Drugs on the Internet)

26 35. Respondents are subject to discipline under Code section 4067(a), in that on or about
27 and between March 18, 2008 and June 6, 2008, Respondents dispensed, furnished, or caused to be
28 dispensed or furnished, dangerous drugs, as defined in Code section 4022, on the Internet for

1 delivery to persons in the state of California without a prescription issued pursuant to a good faith
2 prior examination; and the Respondent knew or reasonably should have known that the
3 prescription was not issued pursuant to a good faith prior examination, or the Respondent did not
4 act in accordance with Section 1761 of Title 16 of the California Code of Regulations:

5 a. Dispensing or furnishing One Thousand One Hundred Three (1103) prescriptions for
6 dangerous drugs, including **Ultracet, Ultram, Fioricet, Omnipen, Soma, Cialis, Flexeril, and**
7 **Viagra.**

8 SECOND CAUSE FOR DISCIPLINE

9 (Failure to Report Dispensing of Controlled Substances to CURES)

10 36. Respondents are subject to discipline under section 11165(d) of the Health and Safety
11 Code, in that on or about and between March 18, 2008 and June 6, 2008, Respondents dispensed
12 prescriptions for Schedule II, Schedule III, or Schedule IV controlled substances, without
13 adequately reporting the prescriptions to the CURES database maintained by the Department of
14 Justice:

15 a. Dispensing One Hundred Eighty Three (183) prescriptions for **Fioricet** (brand name)
16 containing **Butalbital** a Schedule III controlled substance, per Health and Safety Code section
17 11056(c)(3).

18 THIRD CAUSE FOR DISCIPLINE

19 (Filling Prescriptions Written by an Unauthorized Person)

20 37. Respondents are subject to discipline under section 4005(a) and California Code of
21 Regulations 1717, in that on or about and between March 31, 2008 and June 6, 2008,
22 Respondents dispensed prescriptions written by an unauthorized person.

23 a. Dispensing Thirteen (13) prescriptions for Onochie Aghaegbuna, a person who was
24 unauthorized to write prescriptions after surrendering Virginia license 0101230462 on March 31,
25 2008.

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1 FOURTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

3 38. Respondents are subject to discipline under sections 4301(j) and 4301(o) of the Code,
4 in that on or about and between March 31, 2008 and June 6, 2008, Respondents violated any of
5 the statutes of this state, of any other state, or of the Unites States regulating controlled substances
6 and dangerous drugs and violated or attempted to violate, directly or indirectly, or assisting in or
7 abetting the violation of or conspiring to violate any provision or term of this chapter or of the
8 applicable federal and state laws and regulations governing pharmacy, including regulations
9 established by the board or by any other state or federal regulatory agency.

10 a. Dispensing a prescription to an Idaho resident, without obtaining a license from the
11 Idaho Board of Pharmacy, in violation of the Idaho Code section 54-1721.

12 PRAYER

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

15 1. Revoking or suspending revoking or suspending Pharmacy License No. PHY 47454
16 issued to Pokey Bones LLC dba Faast Pharmacy;

17 2. Revoking or suspending Pharmacist License No. RPH 52905 issued to Lisa Marie
18 Faast;

19 3. Pursuant to Section 125.3 of the Code, for an order requiring Respondent Pokey
20 Bones LLC dba Faast Pharmacy and Respondent Lisa Marie Faast, to jointly and severally pay to
21 the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case;

22 4. Taking such other and further action as is deemed necessary and proper.

23 DATED: 7/19/10

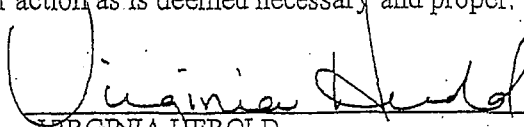
24 
25 VIRGINIA HEROLD
26 Executive Officer
27 Board of Pharmacy
28 Department of Consumer Affairs
State of California
Complainant

Exhibit B

Letter from Respondent

To California State Board of Pharmacy
1625 N Market Blvd, N219
Sacramento, CA 95834

December 1, 2011

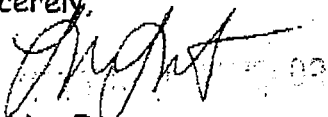
To Board of Pharmacy:

Our internet dispensing started and ended in early 2008 after we were contacted by a company to be a pharmacy for their group of doctors who serviced rural communities. The pharmacy was paid \$4 per script that we filled in addition to the cost of the medication. After the program was pitched to me I began my due diligence process in determining whether or not I could fill these prescriptions. I read the law book, I spoke with other pharmacists, I spoke with vendors and I even left voicemails for someone at the board about filling these prescriptions. I spoke directly with the prescribers as well. The conclusion that I came to was that I was able to fill these prescriptions legally because I thought the minimum requirements for a good faith examinations had been met. Obviously that conclusion was horribly wrong. I should have known that filling these prescriptions were not in compliance with the board's rulings. What I failed to do was consult a lawyer or ensure to get an opinion from someone at the board before engaging in this activity. If I had any doubts I should have refrained from filling these prescriptions at all. These failures have led to great turmoil in my personal and professional life. I stopped filling these prescriptions 4 months after starting, when after discussing this with yet another professional friend, his advice was to stop and wait for clarification. We stopped immediately at this first sign of dissention of this activity.

The punishment for my activities and decisions are numerable. Because of the stress induced during the investigative process I miscarried a child. I have brought disgrace to myself, my business and my profession. I jeopardized the livelihood not only for my immediate family, but my extended family and the families of all of my employees. Financially it has been impossible, between paying my lawyer and the upcoming fines, I am not sure we will make it. Most importantly it may jeopardize my relationships and trust with my patients with whom I care deeply about.

After losing the most important things to me both professionally and personally the only thing left to cling to was God and my relationship with Him has grown tremendously through this stressful process. My love and passion for this profession has been rekindled while fighting to be able to stay in it and I believe I am a better pharmacist now because of it. I am grateful for the grace that has been shown to me by some and I look forward to the opportunities of proving that I belong in the pharmacy profession

Sincerely,



Dr. Lisa Faast