

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

In the Matter of the Accusation Against:

Case No. 4231

WESTLAKE CARE PHARMACY

32144 Agoura Road, #101
Westlake Village, CA 91361
Pharmacy Permit No. PHY 49290

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER-
WESTLAKE CARE PHARMACY**

ASHER KASHANCHI

5210 Etiwanda Street
Tarzana, CA 91356
Pharmacist License No. RPH 56942

Respondent.

DECISION AND ORDER

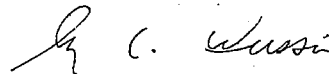
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on November 27, 2013.

It is so ORDERED on November 22, 2013.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STAN C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 MORGAN MALEK
Deputy Attorney General
4 State Bar No. 223382
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
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Attorneys for Complainant

7
8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:
13 **WESTLAKE CARE PHARMACY 32144**
Agoura Road, #101
14 Westlake Village, CA 91361
Pharmacy Permit No. PHY 49290

15 and

16 **ASHER KASHANCHI**
Agoura Road, #101
Westlake Village, CA 91361
Pharmacist License No. RPH [REDACTED]

17 Respondents.

Case No. 4231

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER-WESTLAKE
CARE PHARMACY**

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

23 PARTIES

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

2. Respondent Westlake Care Pharmacy (Respondent) is represented in this proceeding by attorney Herbert L. Weinberg, Esq., whose address is:
1800 Century Park East, 8th Fl.
Los Angeles, CA 90067

3. On or about November 20, 2008, the Board of Pharmacy issued Permit No. PHY 49290 to the Respondent. The Permit was in full force and effect at all times relevant to the charges brought in Accusation No. 4231 and will expire on November 1, 2013, unless renewed. Asher Kashanchi has been the President and Pharmacist-in-Charge of Westlake care Pharmacy since November 20, 2008. Jack Richman has been the Vice President of Westlake care Pharmacy since November 20, 2008. Annette Richman has been the Secretary of Westlake care Pharmacy since November 20, 2008.

JURISDICTION

4. Second Amended Accusation No. 4231 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 21, 2013. Respondent timely filed its Notice of Defense contesting the Accusation.

5. A copy of the Second Amended Accusation No. 4231 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 4231. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of its legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at its own expense; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and

1 court review of an adverse decision; and all other rights accorded by the California
2 Administrative Procedure Act and other applicable laws.

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

5 CULPABILITY

6 9. Respondent admits the truth of each and every charge and allegation in Accusation
7 No. 4231.

8 10. Respondent agrees that its Permit is subject to discipline and they agree to be bound
9 by the Board's imposition of discipline as set forth in the Disciplinary Order below.

10 RESERVATION

11 11. The admissions made by Respondent herein are only for the purposes of this ...
12 proceeding, or any other proceedings in which the Board of Pharmacy or other professional
13 licensing agency is involved, and shall not be admissible in any other criminal or civil
14 proceeding.

15 CONTINGENCY

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

25 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
26 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
27 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.
28

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

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

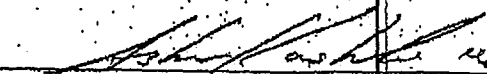
10 **DISCIPLINARY ORDER**

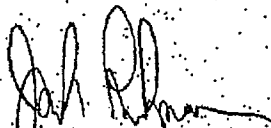
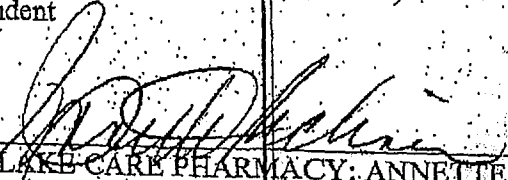
11 IT IS HEREBY ORDERED that Permit No. PHY 49290 issued to Respondent Westlake
12 Care Pharmacy is revoked, however, revocation is stayed for up to sixty (60) days from the
13 effective date of this Decision, during which Respondent shall sell Westlake Care Pharmacy's
14 assets to a third party acceptable to the Board. If Westlake Pharmacy is not sold by December 1,
15 2013, Westlake Care Pharmacy's license shall be revoked. Further, the co-owners of Westlake
16 Care, Annette Richman and Jack Richman, agree to never pursue ownership of any entity
17 regulated by the California Board of Pharmacy.

18 **ACCEPTANCE**

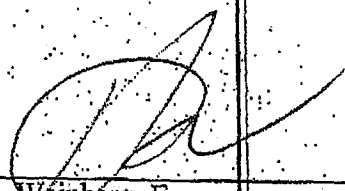
19 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
20 discussed it with my attorney, Herbert L. Weinberg, Esq. I understand the stipulation and the
21 effect it will have on my Permit. I enter into this Stipulated Settlement and Disciplinary Order
22 voluntarily,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

24
25 DATED: 7/28/13

26 
27 WESTLAKE CARE PHARMACY, ASHER
28 KASHANCHI (CO-OWNER, PRESIDENT AND
PHARMACIST IN CHARGE OF WESTLAKE
CARE PHARMACY)
Respondent

1
2 DATED: 7/28/13
WESTLAKE CARE PHARMACY; JACK
RICHMAN (CO-OWNER AND VICE PRESIDENT
OF WESTLAKE CARE PHARMACY)
Respondent3
4
5
6 DATED: 7/28/13
WESTLAKE CARE PHARMACY; ANNETTE
RICHMAN (CO-OWNER AND SECRETARY OF
WESTLAKE CARE PHARMACY)
Respondent7
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10
11 I have read and fully discussed with Respondent Westlake Care Pharmacy; Asher
12 Kashanchi; Jack Richman; Annette Richman the terms and conditions and other matters
13 contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and
14 content.
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16 DATED: 7/28/13


Herbert L. Weinberg, Esq.
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: 7/28/13

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General


MORGAN MALEK
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 4231

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 MORGAN MALEK
Deputy Attorney General
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5 Los Angeles, CA 90013
Telephone: (213) 897-2643
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:
13 **WESTLAKE CARE PHARMACY 32144**
Agoura Road, #101
Westlake Village, CA 91361
Pharmacy Permit No. PHY 49290

Case No. 4231

14 **SECOND AMENDED ACCUSATION**

and

15 **ASHER KASHANCHI**
Agoura Road, #101
Westlake Village, CA 91361
16 Pharmacist License No. RPH [REDACTED]

17 Respondent.
18

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20
21
22 Complainant alleges:

23 **PARTIES**

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

26 2. On or about November 20, 2008, the Board of Pharmacy issued Permit Number PHY
27 49290 to Westlake Care Pharmacy (WESTLAKE CARE PHARMACY). The Permit was in full
28 force and effect at all times relevant to the charges brought herein and will expire on November 1,

1 2013, unless renewed. Asher Kashanchi (ASHER KASHANCHI) has been the President and
2 Pharmacist-in-Charge of WESTLAKE CARE PHARMACY since November 20, 2008. Jack
3 Richman has been the Vice President of WESTLAKE CARE PHARMACY since November 20,
4 2008. Annette Richman has been the Secretary of WESTLAKE CARE PHARMACY since
5 November 20, 2008.

6 3. On or about April 11, 2005, the Board issued Pharmacist License No. RPH [REDACTED] to
7 Asher Kashanchi (ASHER KASHANCHI). The Pharmacist License was in full force and effect
8 at all times relevant to the charges brought herein and will expire on June 30, 2014, unless
9 renewed.

10 JURISDICTION

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

14 STATUTORY AUTHORITIES

15 5. Section 118, subdivision (b), of the Code states:

16 "The suspension, expiration, or forfeiture by operation of law of a license issued by a board
17 in the department, or its suspension, forfeiture, or cancellation by order of the board or by order
18 of a court of law, or its surrender without the written consent of the board, shall not, during any
19 period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
authority to institute or continue a disciplinary proceeding against the licensee upon any ground
provided by law or to enter an order suspending or revoking the license or otherwise taking
disciplinary action against the licensee on any such ground."

20 6. Section 4006 of the Code states:

21 "The board may adopt regulations consistent with this chapter and Section 111485 of the
22 Health and Safety Code or regulations adopted thereunder, limiting or restricting the furnishing
of a particular drug upon a finding that the otherwise unrestricted retail sale of the drug pursuant
to Section 4057 is dangerous to the public health or safety."

23 7. Section 4022 of the Code states

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

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

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

1 "(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."

2 8. Section 4059 of the Code states:

3 a) A person may not furnish any dangerous drug, except upon the prescription of a
physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
4 3640.7. A person may not furnish any dangerous device, except upon the prescription of a
physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
5 3640.7.

6 (b) This section does not apply to the furnishing of any dangerous drug or dangerous
device by a manufacturer, wholesaler, or pharmacy to each other or to a physician, dentist,
7 podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or to a
laboratory under sales and purchase records that correctly give the date, the names and addresses
8 of the supplier and the buyer, the drug or device, and its quantity. This section does not apply to
the furnishing of any dangerous device by a manufacturer, wholesaler, or pharmacy to a physical
9 therapist acting within the scope of his or her license under sales and purchase records that
correctly provide the date the device is provided, the names and addresses of the supplier and the
buyer, a description of the device, and the quantity supplied.

10 9. Section 4081, subdivision (a) of the Code states:

11 "(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs
or dangerous devices shall be at all times during business hours open to inspection by authorized
12 officers of the law, and shall be preserved for at least three years from the date of making. A
current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary
13 food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital,
institution, or establishment holding a currently valid and unrevoked certificate, license, permit,
14 registration, or exemption under Division 2 (commencing with Section 1200) of the Health and
Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and
15 Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

16 10. Section 4301 of the Code, subdivision (q) of the Code states:

17 "...Unprofessional conduct shall include, but is not limited to engaging in any conduct that
subverts or attempts to subvert an investigation of the board."

18 11. Section 4306.5 of the Code states:

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

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

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

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

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

27 12. Section 4342 of the Code states:

“(a) The board may institute any action or actions as may be provided by law and that, in its discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs that do not conform to the standard and tests as to quality and strength, provided in the latest edition of the United States Pharmacopoeia or the National Formulary, or that violate any provision of the Sherman Food, Drug and Cosmetic Law (Part 5 (commencing with Section 109875) of Division 104 of the Health and Safety Code).

13. Section 111430 of the Health and Safety Code states:

"A drug or device is misbranded if it was manufactured in an establishment not duly registered with the Secretary of Health, Education, and Welfare of the United States."

14. Section 111440 of the Health and Safety Code states:

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

15. Section 111450 of the Health and Safety Code states:

"It is unlawful for any person to receive in commerce any drug or device that is misbranded or to deliver or proffer for delivery any drug or device."

16. Section 111490 of the Health and Safety Code states:

(a) A drug or device that is subject to Section 111470 is misbranded if at any time prior to dispensing, its label fails to bear the statement "Caution: federal law prohibits dispensing without prescription," or "Caution: state law prohibits dispensing without prescription," or "R x only." A drug or device to which Section 111470 does not apply is misbranded if at any time prior to dispensing its label bears the caution statement or "R x only" quoted in the preceding sentence.

(b) A device that is subject to Section 111470 is misbranded if, at any time prior to dispensing, its label fails to bear the statement "Caution: federal law restricts this device to sale by or on the order of a _____," the blank to be filled in with the designation of the practitioner licensed to use or order use of the device. A device to which Section 111470 does not apply is misbranded if, at any time prior to dispensing, its label bears the caution statement quoted in the preceding sentence.

REGULATORY PROVISIONS

17. California Code of Regulations, title 16, section 1711 states:

“

(c) (1) Each quality assurance program shall be managed in accordance with written policies and procedures maintained in the pharmacy in an immediately retrievable form.

...

18. California Code of Regulations, title 16, section 1715 states:

“... ”

(d) Each self-assessment shall be kept on file in the pharmacy for three years after it is performed.”

1 19. California Code of Regulations, title 16, section 1718, states:
2 "Current Inventory' as used in Sections 4081 and 4332 of the Business and Professions
3 Code shall be considered to include complete accountability for all dangerous drugs handled by
4 every licensee enumerated in Sections 4081 and 4332. "The controlled substances inventories
5 required by Title 21, CFR, Section 1304 shall be available for inspection upon request for at least
6 3 years after the date of the inventory."

7 20. California Code of Regulations, title 16, section 1793.7, subdivision (d), states:

8 "...
9 (c) A pharmacy technician must wear identification clearly identifying him or her as a
10 pharmacy technician.

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

16 **COST RECOVERY**

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

21 **FIRST CAUSE FOR DISCIPLINE**

22 (Subverting the investigation)

23 22. Respondents WESTLAKE CARE PHARMACY and ASHER KASHANCHI are
24 subject to disciplinary action under section 4301, subdivision (q) of the Code, in that during a
25 Board investigation of the Westlake Care Pharmacy on February 3, 2011, the Board Inspector
26 requested the production of the copies of the Self Assessment, QA, technician P/P, acquisition
27 and disposition documents for medications Zyprexa 5 mg, Caduet 10/20 and Abilify 10 mg from
28 the time Westlake Care Pharmacy was originally opened for business up to and including the date
of the inspection (February 3, 2011). Further, the inspector requested an explanation to the
following: (1) why were there one hundred nineteen (119) tablets in a one hundred (100) count
bottle, (2) the location where the medications were shipped, (3) the invoices from a wholesaler, if

1 available, and the length of time the drugs were being dispensed.¹ The inspector provided
2 fourteen (14) days to comply. On February 17, 2011, Westlake Care Pharmacy forwarded the
3 impairment policy, a technician job statement, and the DEA inventory. The remaining requested
4 documents were not produced to the Board Inspector, in violation of section 4301, subdivision (q)
5 of the Code.

6 **SECOND CAUSE FOR DISCIPLINE**

7 (Failure to Have Pharmacy Records Available and Open for Inspection)

8 23. Respondents WESTLAKE CARE PHARMACY and ASHER KASHANCHI are
9 subject to disciplinary action under section 1718 of California Code of Regulations, in that during
10 a Board investigation of the Westlake Care Pharmacy on February 3, 2011, the Board Inspector
11 requested the production of the acquisition documents for the Canadian drugs, however, the
12 Respondents failed to comply with said request, in violation of section 1718 of California Code of
13 Regulations.

14 **THIRD CAUSE FOR DISCIPLINE**

15 (Name Tag Missing on the Pharmacy Technician)

16 24. Respondents WESTLAKE CARE PHARMACY and ASHER KASHANCHI are
17 subject to disciplinary action under section 1793.7, subdivision (c) of California Code of
18 Regulations, in that during a Board investigation of the Westlake Care Pharmacy on February 3,
19 2011, the Board Inspector found that the technician did not have a name tag identifying herself as
20 a technician, in violation of 1793.7, subdivision (c) of California Code of Regulations.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 (Controlled Substance Inventory Missing)

23 25. Respondents WESTLAKE CARE PHARMACY and ASHER KASHANCHI are
24 subject to disciplinary action under section 1718 of California Code of Regulations, in that during
25 a Board investigation of the Westlake Care Pharmacy on February 3, 2011, the Board Inspector

26
27 ¹ During the inspection, Annette Richman asked the Board Inspector whether it would be better to provide the
28 documents and get fined by the Board, or whether not provide the documents at all.

1 found that the biennial DEA inventories were missing, in violation of 1718 of California Code of
2 Regulations.

3 **FIFTH CAUSE FOR DISCIPLINE**

4 (Technician Policies and Job Duties Unavailable during the Inspection)

5 26. Respondents WESTLAKE CARE PHARMACY and ASHER KASHANCHI are
6 subject to disciplinary action under section 1793.7, subdivision (d) of California Code of
7 Regulations, in that during a Board investigation of the Westlake Care Pharmacy on February 3,
8 2011, the Board Inspector found that the technician policies or procedures and/or job duty
9 statements were unavailable for inspection, in violation of 1793.7, subdivision (d) of California
10 Code of Regulations.

11 **SIXTH CAUSE FOR DISCIPLINE**

12 (Self Assessment Form Unavailable During the Inspection)

13 27. Respondents WESTLAKE CARE PHARMACY and ASHER KASHANCHI are
14 subject to disciplinary action under section 1715, subdivision (d) of California Code of
15 Regulations, in that during a Board investigation of the Westlake Care Pharmacy on February 3,
16 2011, the Board Inspector found that the Self Assessment Form was unavailable for inspection, in
17 violation of section 1715, subdivision (d) of California Code of Regulations.

18 **SEVENTH CAUSE FOR DISCIPLINE**

19 (Quality Assurance Policy and Procedure Unavailable During the Inspection)

20 28. Respondents WESTLAKE CARE PHARMACY and ASHER KASHANCHI are
21 subject to disciplinary action under section 1711, subdivision (c)(1) of California Code of
22 Regulations, in that during a Board investigation of the Westlake Care Pharmacy on February 3,
23 2011, the Board Inspector found that the Quality Assurance Policy and Procedure was
24 unavailable for inspection, in violation of section 1711, subdivision (c)(1) of California Code of
25 Regulations.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 (Inadequate Recordkeeping)

3 29. Respondents WESTLAKE CARE PHARMACY and ASHER KASHANCHI are
4 subject to disciplinary action under section 4059, subdivisions (a) and (b) of the Code, in that
5 during a Board investigation of the Westlake Care Pharmacy on February 3, 2011, the Board
6 Inspector found numerous prescriptions filled for patients from Drug Company which were
7 depoted at Westlake Care Pharmacy, but there were no documentation indicating that the drugs
8 had been transferred to Westlake Care Pharmacy, in violation of section 4059, subdivisions (a)
9 and (b) of the Code.

10 **NINETH CAUSE FOR DISCIPLINE**

11 (Misbranded Drugs)

12 30. Respondents WESTLAKE CARE PHARMACY and ASHER KASHANCHI are
13 subject to disciplinary action under section 111430 of the Health and Safety Code, in that during a
14 Board investigation of the Westlake Care Pharmacy on February 3, 2011, the Board Inspector
15 found the following drugs at Westlake Care Pharmacy which were not intended for use in the
16 United States, in violation of section 111430 of the Health and Safety Code. Specifically The
17 Board Inspector asked ASHER KASHANCHI from where he received the English/French drugs.
18 ASHER KASHANCHI told the inspector that he received them from his wholesaler. When the
19 Board Inspector asked for the record, ASHER KASHANCHI asked his partner, Annette
20 Richman, part owner of the Westlake Pharmacy, however, no one produced any records. After
21 thirty (30) minutes, the Board Inspector asked again for the records, and ASHER KASHANCHI
22 and Ms. Richman admitted that they did not have them. The Board Inspector inquired whether
23 they went over the border to Canada to obtain the English/French drugs, however, they did not
24 answer. The inspector informed them that they needed to have documents showing where the
25 drugs came from. Annette Richman then admitted that she had purchased the drugs from a
26 pharmacy in Canada and that she did not have the documentation. The inspector asked how the
27 pharmacy billed for the Canadian product since it did not have a NDC number. ASHER
28

KASHANCHI stated the pharmacy billed under the NDC² for the similar United States product. The inspector noted that there was no US product on the shelves for those English/French drugs. The following drugs were misbranded:

Drug Name	Strength	Pills Per Unit	Number of Units	Available in the United States	Misbranded
Fosavance	70/2800	4	6	No	Yes
Imitrex DF	100	24	2	No	Yes
Actonel	150	1	10	Yes	Yes
Wellbutrin XL	150	90	1	Yes	Yes
Wellbutrin XL	300	90	1	Yes	Yes
Niaspan FCT	750	90	1	No	Yes
Niaspan FCT	1000	90	1	No	Yes
Abilify	5	30	2	Yes	Yes
Abilify	10	30	3	Yes	Yes
Aromasin	25	30	1	Yes	Yes
Asacol	400	180	2	Yes	Yes
Caduet	1020	90	180	Yes	Yes
Maxcalt RPD	10	6	3	No	Yes
Seroquel	300	100	1	Yes	Yes
SeroquelXR	300	60	2	Yes	Yes

² The National Drug Code (NDC) is a unique product identifier used in the United States for drugs intended for human use. The Drug Listing Act of 1972 requires registered drug establishments to provide the Food and Drug Administration (FDA) with a current list of all drugs manufactured, prepared, propagated, compounded, or processed by it for commercial distribution. Drug products are identified and reported using the NDC.

1	Prevacid	15	30	3	Yes	Yes
2	Fastab					
3	Singulair	4	30	3	Yes	Yes
4	Zyprexa	5	100	2	Yes	Yes
5	Zyprexa	10	100	1	Yes	Yes
6	Zyprexa	20	100	2	Yes	Yes

TENTH CAUSE FOR DISCIPLINE

(Unlawfully Holding, Delivering or Offering for Sale Misbranded Drugs)

31. Respondents WESTLAKE CARE PHARMACY and ASHER KASHANCHI are subject to disciplinary action under section 111440 of the Health and Safety Code, in that during a Board investigation of the Westlake Care Pharmacy on February 3, 2011, the Board Inspector found the following drugs at Westlake Care Pharmacy which were held and offered for sale, in violation of section 111440 of the Health and Safety Code.

Drug Name	Strength	Pills Per Unit	Number of Units	Available in the United States	Misbranded
Fosavance	70/2800	4	6	No	Yes
Imitrex DF	100	24	2	No	Yes
Actonel	150	1	10	Yes	Yes
Wellbutrin XL	150	90	1	Yes	Yes
Wellbutrin XL	300	90	1	Yes	Yes
Niaspan FCT	750	90	1	No	Yes
Niaspan FCT	1000	90	1	No	Yes

1	Abilify	5	30	2	Yes	Yes
2	Abilify	10	30	3	Yes	Yes
3	Aromasin	25	30	1	Yes	Yes
4	Asacol	400	180	2	Yes	Yes
5	Caduet	1020	90	180	Yes	Yes
6	Maxcalt RPD	10	6	3	No	Yes
7	Seroquel	300	100	1	Yes	Yes
8	SeroquelXR	300	60	2	Yes	Yes
9	Prevacid	15	30	3	Yes	Yes
10	Fastab					
11	Singulair	4	30	3	Yes	Yes
12	Zyprexa	5	100	2	Yes	Yes
13	Zyprexa	10	100	1	Yes	Yes
14	Zyprexa	20	100	2	Yes	Yes

ELEVENTH CAUSE FOR DISCIPLINE

(Unlawfully Receiving Misbranded Drugs)

32. Respondents WESTLAKE CARE PHARMACY and ASHER KASHANCHI are subject to disciplinary action under section 111450 of the Health and Safety Code, in that during a Board investigation of the Westlake Care Pharmacy on February 3, 2011, the Board Inspector found the following misbranded drugs were received in commerce and delivered by Westlake Care Pharmacy which were not intended for use in the United States, in violation of section 111450 of the Health and Safety Code.

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Drug Name	Strength	Pills Per Unit	Number of Units	Available in the United States	Misbranded
Fosavance	70/2800	4	6	No	Yes
Imitrex DF	100	24	2	No	Yes
Actonel	150	1	10	Yes	Yes
Wellbutrin XL	150	90	1	Yes	Yes
Wellbutrin XL	300	90	1	Yes	Yes
Niaspan FCT	750	90	1	No	Yes
Niaspan FCT	1000	90	1	No	Yes
Abilify	5	30	2	Yes	Yes
Abilify	10	30	3	Yes	Yes
Aromasin	25	30	1	Yes	Yes
Asacol	400	180	2	Yes	Yes
Caduet	1020	90	180	Yes	Yes
Maxcalt RPD	10	6	3	No	Yes
Seroquel	300	100	1	Yes	Yes
SeroquelXR	300	60	2	Yes	Yes
Prevacid	15	30	3	Yes	Yes
Fastab					
Singulair	4	30	3	Yes	Yes
Zyprexa	5	100	2	Yes	Yes
Zyprexa	10	100	1	Yes	Yes
Zyprexa	20	100	2	Yes	Yes

TWELFTH CAUSE FOR DISCIPLINE

(Misbranded Drugs)

33. Respondents WESTLAKE CARE PHARMACY and ASHER KASHANCHI are subject to disciplinary action under section 111490 of the Health and Safety Code, in that during a Board investigation of the Westlake Care Pharmacy on February 3, 2011, the Board Inspector found the following misbranded drugs were found at Westlake Care Pharmacy, in violation of section 111490 of the Health and Safety Code.

Drug Name	Strength	Pills Per Unit	Number of Units	Available in the United States	Misbranded
Fosavance	70/2800	4	6	No	Yes
Imitrex DF	100	24	2	No	Yes
Actonel	150	1	10	Yes	Yes
Wellbutrin XL	150	90	1	Yes	Yes
Wellbutrin XL	300	90	1	Yes	Yes
Niaspan FCT	750	90	1	No	Yes
Niaspan FCT	1000	90	1	No	Yes
Abilify	5	30	2	Yes	Yes
Abilify	10	30	3	Yes	Yes
Aromasin	25	30	1	Yes	Yes
Asacol	400	180	2	Yes	Yes
Caduet	1020	90	180	Yes	Yes
Maxcalt RPD	10	6	3	No	Yes
Seroquel	300	100	1	Yes	Yes

1	SeroquelXR	300	60	2	Yes	Yes
2	Prevacid	15	30	3	Yes	Yes
3	Fastab					
4	Singulair	4	30	3	Yes	Yes
5	Zyprexa	5	100	2	Yes	Yes
6	Zyprexa	10	100	1	Yes	Yes
7	Zyprexa	20	100	2	Yes	Yes

THIRTEENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct- Billing Fraud)

33. Respondents WESTLAKE CARE PHARMACY and ASHER KASHANCHI are subject to disciplinary action under sections 4342 and 4169 of the Code and section 111335 of the Health and Safety Code, in that during a Board investigation of the Westlake Care Pharmacy on February 3, 2011, the Board Inspector asked ASHER KASHANCHI how WESTLAKE CARE PHARMACY billed for the Canadian drugs (misbranded drugs) listed below since it did not have a NDC number. ASHER KASHANCHI admitted to the Board Inspector that WESTLAKE CARE PHARMACY billed the misbranded drugs listed below under the NDC for the similar United States drugs, in violation of sections 4342 and 4169 of the Code and section 111335 of the Health and Safety Code.

Drug Name	Strength	Pills Per Unit	Number of Units	Available in the United States	Misbranded
Fosavance	70/2800	4	6	No	Yes
Imitrex DF	100	24	2	No	Yes
Actonel	150	1	10	Yes	Yes
Wellbutrin	150	90	1	Yes	Yes

1	XL					
2	Wellbutrin	300	90	1	Yes	Yes
3	XL					
4	Niaspan FCT	750	90	1	No	Yes
5	Niaspan FCT	1000	90	1	No	Yes
6	Abilify	5	30	2	Yes	Yes
7	Abilify	10	30	3	Yes	Yes
8	Aromasin	25	30	1	Yes	Yes
9	Asacol	400	180	2	Yes	Yes
10	Caduet	1020	90	180	Yes	Yes
11	Maxcalt RPD	10	6	3	No	Yes
12	Seroquel	300	100	1	Yes	Yes
13	SeroquelXR	300	60	2	Yes	Yes
14	Prevacid	15	30	3	Yes	Yes
15	Fastab					
16	Singulair	4	30	3	Yes	Yes
17	Zyprexa	5	100	2	Yes	Yes
18	Zyprexa	10	100	1	Yes	Yes
19	Zyprexa	20	100	2	Yes	Yes

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 Permit Number PHY 49290, issued to WESTLAKE CARE PHARMACY;

2. Revoking or suspending Pharmacist License Number RPH [REDACTED], issued to ASHER KASHANCHI;

1 3. Ordering Asher Kashanchi to pay the Board of Pharmacy the reasonable costs of the
2 investigation and enforcement of this case, pursuant to Business and Professions Code section
3 125.3;

4 4. Taking such other and further action as deemed necessary and proper.
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8 DATED:

5/20/13

morgan malet for

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

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