

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

In the Matter of the Accusation Against:

**SAFEWAY PHARMACY INC.<sup>1</sup>  
d.b.a. Safeway Pharmacy #4905  
6100 Hellyer Avenue, Suite 100  
San Jose, California 95138**

**Original Permit No. PHY 52537**

**SAFEWAY PHARMACY INC.  
d.b.a. Safeway Pharmacy #4526<sup>2</sup>  
255 Second Street  
Los Altos, California 94022**

**Original Permit No. PHY 51192,**

Respondents.

Case No. 5605  
OAH No. 2016050394

**DECISION AND ORDER**

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

This Decision shall become effective at 5:00 p.m. on December 22, 2016.

It is so ORDERED November 22, 2016.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By \_\_\_\_\_

Amy Gutierrez, Pharm.D.  
Board President

<sup>1</sup> The accusation is against "Safeway Pharmacy Inc."; however, the incorporated entity is "Safeway Inc."

<sup>2</sup> The accusation lists the business name as "Safeway Pharmacy #4526; however, the business name is "Safeway #4526."

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Attorney General of California  
2 DIANN SOKOLOFF  
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5605  
OAH No. 2016050394

12 **SAFeway PHARMACY INC.<sup>1</sup>**  
13 **d.b.a. Safeway Pharmacy #4905**  
14 **6100 Hellyer Avenue, Suite 100**  
15 **San Jose, California 95138**

**STIPULATED SURRENDER AND  
ORDER**

16 **Original Permit No. PHY 52537**

17 **SAFeway PHARMACY INC.**  
18 **d.b.a. Safeway Pharmacy #4526<sup>2</sup>**  
19 **255 Second Street**  
20 **Los Altos, California 94022**

21 **Original Permit No. PHY 51192,**

22 Respondents.

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

25 ///

26 <sup>1</sup> The accusation is against "Safeway Pharmacy Inc."; however, the incorporated  
27 entity is "Safeway Inc." This Stipulated Surrender will use the correct name "Safeway Inc."

28 <sup>2</sup> The accusation lists the business name as "Safeway Pharmacy #4526"; however,  
the business name is "Safeway #4526." This Stipulated Surrender will use the correct name  
"Safeway #4526."

1 **PARTIES**

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

6 2. Respondent Safeway Inc., d.b.a. Safeway Pharmacy #4905 and Safeway #4526, is  
7 represented in this proceeding by attorney Craig O'Loughlin and Alissa Brice Castaneda, whose  
8 address is Two North Central Avenue, Phoenix, AZ 95004.

9 3. On December 3, 2014, the board issued Original Permit No. PHY 52537 to  
10 respondent Safeway Inc., d.b.a. Safeway Pharmacy #4905. Original Permit No. PHY 52537 was  
11 cancelled on March 6, 2015.

12 4. On December 13, 2012, the board issued Original Permit No. PHY 51192 to  
13 respondent Safeway Inc., d.b.a. Safeway #4526. Original Permit No. PHY 51192 was cancelled  
14 on January 29, 2015.

15 **JURISDICTION**

16 5. Accusation No. 5605 was filed before the board and is currently pending against  
17 respondents. The accusation and all other statutorily required documents were properly served on  
18 respondents on January 21, 2016. Respondents timely filed their notices of defense contesting the  
19 accusation. A copy of Accusation No. 5605 is attached as exhibit 1 and incorporated by  
20 reference.

21 **ADVISEMENT AND WAIVERS**

22 6. Respondents have carefully read, fully discussed with counsel, and understand the  
23 charges and allegations in Accusation No. 5605. Respondents have also carefully read, fully  
24 discussed with counsel, and understand the effects of this Stipulated Surrender of License and  
25 Order.

26 7. Respondents are fully aware of their legal rights in this matter, including the right  
27 to a hearing on the charges and allegations in the accusation; the right to confront and cross-  
28 examine the witnesses against them; the right to present evidence and to testify on their own

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

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

### 7 **CULPABILITY**

8 9. Respondents understand and agree that the charges and allegations in Accusation  
9 No. 5605, if proven at a hearing, constitute cause for imposing discipline upon their Original  
10 Permit No. PHY 52537 and Original Permit No. PHY 51192.

11 10. For the purpose of resolving the accusation without the expense and uncertainty of  
12 further proceedings, respondents agree that, at a hearing, complainant could establish a factual  
13 basis for the charges in the accusation, and that respondents give up their right to contest those  
14 charges.

15 11. Respondent Safeway Inc., d.b.a. Safeway Pharmacy #4905, agrees that cause  
16 exists for discipline of its Original Permit No. PHY 52537 and surrenders Original Permit No.  
17 PHY 52537 for the board's formal acceptance.

18 12. Respondent Safeway Inc., d.b.a. Safeway #4526, agrees that cause exists for  
19 discipline of its Original Permit No. PHY 51192 and surrenders its Original Permit No. PHY  
20 51192 for the board's formal acceptance.

21 13. Respondent Safeway Inc., d.b.a. Safeway Pharmacy #4905, understands that by  
22 signing this stipulation, respondent enables the board to issue an order accepting the surrender of  
23 its Original Permit No. PHY 52537 without further process.

24 14. Respondent Safeway Inc., d.b.a. Safeway #4526, understands that by signing this  
25 stipulation, respondent enables the board to issue an order accepting the surrender of its Original  
26 Permit No. PHY 51192 without further process.

### 27 **RESERVATION**

28 15. The admissions made by respondents in this stipulation are only for the purposes

1 of this proceeding, or any other proceedings in which the Board of Pharmacy or other  
2 professional licensing agency is involved, and shall not be admissible in any other criminal or  
3 civil proceeding.

#### 4 **CONTINGENCY**

5 16. This stipulation shall be subject to approval by the board. Respondents understand  
6 and agree that counsel for complainant and the staff of the board may communicate directly with  
7 the board regarding this stipulation and surrender, without notice to or participation by  
8 respondents or their counsel. By signing the stipulation, respondents understand and agree that  
9 they may not withdraw their agreement or seek to rescind the stipulation prior to the time the  
10 board considers and acts upon it. If the board fails to adopt this stipulation as its Decision and  
11 Order, the Stipulated Surrender and Order shall be of no force or effect, except for this paragraph;  
12 it shall be inadmissible in any legal action between the parties; and the board shall not be  
13 disqualified from further action by having considered this matter.

14 17. The parties understand and agree that portable document format (PDF) and  
15 facsimile copies of this Stipulated Surrender of License and Order, including PDF and facsimile  
16 signatures, shall have the same force and effect as the originals.

17 18. This Stipulated Surrender of License and Order is intended by the parties to be an  
18 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
19 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
20 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order  
21 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing  
22 executed by an authorized representative of each of the parties.

23 19. In consideration of the foregoing admissions and stipulations, the parties agree that  
24 the board may, without further notice or formal proceeding, issue and enter the following Order:

#### 25 **ORDER**

26 IT IS ORDERED that Original Permit No. PHY 52537 and Original Permit No. PHY  
27 51192 issued to respondent Safeway Inc., d.b.a. Safeway Pharmacy #4905 and Safeway #4526,  
28 are surrendered and accepted by the Board of Pharmacy.

1           1.       The surrender of respondents' Original Permit No. PHY 52537 and Original  
2 Permit No. PHY 51192 and the acceptance of these surrendered licenses by the board shall  
3 constitute the imposition of discipline against respondents. This stipulation constitutes a record  
4 of the discipline and shall become a part of respondents' license histories with the Board of  
5 Pharmacy.

6           2.       Respondents shall lose all rights and privileges as pharmacies in California as of  
7 the effective date of the board's Decision and Order.

8           3.       Respondents shall cause to be delivered to the board their pocket licenses and, if  
9 they were issued, their wall certificates on or before the effective date of the Decision and Order.

10          4.       If respondents ever apply for licensure or petitions for reinstatement in the State of  
11 California, the board shall treat it as a new application for licensure. Respondents may not  
12 reapply to the board for reinstatement of their revoked licenses for three years from the effective  
13 date of this decision. Respondents must comply with all the laws, regulations and procedures for  
14 licensure in effect at the time the application or petition is filed, and all of the charges and  
15 allegations contained in Accusation No. 5605 shall be deemed to be true, correct and admitted by  
16 respondents when the board determines whether to grant or deny the application or petition.

17          5.       Respondents stipulate that should they apply for any license from the board on or  
18 after the effective date of this decision, investigation and prosecution costs in the amount of  
19 \$10,766.75 shall be paid to the board prior to issuance of the license. Respondents are  
20 responsible for these costs jointly and severally with respondents John Vincent Castaldo, Karen  
21 Lyn Muir, and Christine Moheb Stephanos, who are also named in Accusation No. 5605, to the  
22 extent that each respondent is held responsible for those costs by a settlement agreement or final  
23 adjudication of the accusation.

24          6.       If respondents should ever apply or reapply for a new license or certification, or  
25 petition for reinstatement of a license, by any other health care licensing agency in the State of  
26 California, all of the charges and allegations contained in Accusation No. 5605 shall be deemed to  
27 be true, correct, and admitted by respondents for the purpose of any statement of issues or any  
28 other proceeding seeking to deny or restrict licensure.

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**ACCEPTANCE**

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorneys, Craig O'Loughlin and Alissa Brice Castaneda. I understand the stipulation and the effect it will have on Original Permit No. PHY 52537 and Original Permit No. PHY 51192. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: \_\_\_\_\_

SAFeway INC.  
d.b.a. Safeway Pharmacy #4905 and Safeway  
#4526  
*Respondent*

I have read and fully discussed with respondent Safeway Inc., d.b.a. Safeway Pharmacy #4905 and Safeway #4526, the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: \_\_\_\_\_

CRAIG O'LOUGHLIN  
ALISSA BRICE CASTANEDA  
*Attorneys for Respondent*

**ENDORSEMENT**

This Stipulated Surrender of License and Order is submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated:

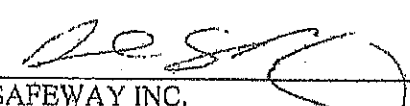
Respectfully submitted,  
  
KAMALA D. HARRIS  
Attorney General of California  
DIANN SOKOLOFF  
Supervising Deputy Attorney General

GREGORY TUSS  
Deputy Attorney General  
*Attorneys for Complainant*

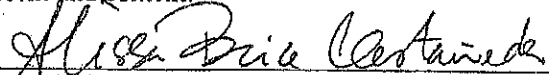
SF2015402803  
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1 ACCEPTANCE

2 I have carefully read the above Stipulated Surrender of License and Order and have fully  
3 discussed it with my attorneys, Craig O'Loughlin and Alissa Brice Castaneda. I understand the  
4 stipulation and the effect it will have on Original Permit No. PHY 52537 and Original Permit No.  
5 PHY 51192. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly,  
6 and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

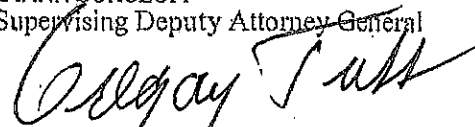
7  
8 DATED: 10/17/16   
9 SAFEWAY INC.  
10 d.b.a. Safeway Pharmacy #4905 and Safeway  
11 #4526  
12 Respondent

11 I have read and fully discussed with respondent Safeway Inc., d.b.a. Safeway Pharmacy  
12 #4905 and Safeway #4526, the terms and conditions and other matters contained in this Stipulated  
13 Surrender of License and Order. I approve its form and content.

14 DATED: 10/17/16   
15 CRAIG O'LOUGHLIN  
16 ALISSA BRICE CASTANEDA  
17 Attorneys for Respondent

18 ENDORSEMENT

19 This Stipulated Surrender of License and Order is submitted for consideration by the  
20 Board of Pharmacy of the Department of Consumer Affairs.

21 Dated: 10.17.16 Respectfully submitted,  
22 KAMALA D. HARRIS  
23 Attorney General of California  
24 DIANN SOKOLOFF  
25 Supervising Deputy Attorney General  
26   
27 GREGORY TUSS  
28 Deputy Attorney General  
Attorneys for Complainant

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Safeway Surrender.doc



**Exhibit 1**

**Accusation No. 5605**

1 KAMALA D. HARRIS  
Attorney General of California  
2 DIANN SOKOLOFF  
Supervising Deputy Attorney General  
3 GREGORY TUSS  
Deputy Attorney General  
4 State Bar No. 200659  
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Facsimile: (510) 622-2270  
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5605

12 **SAFEWAY PHARMACY INC.**  
d.b.a. Safeway Pharmacy #4905  
13 6100 Hellyer Avenue, Suite 100  
San Jose, California 95138

**ACCUSATION**

14 Original Permit No. PHY 52537  
15 Original Permit No. PHY 53416,

16 **SAFEWAY PHARMACY INC.**  
d.b.a. Safeway Pharmacy #4526  
17 255 Second Street  
Los Altos, California 94022

18 Original Permit No. PHY 51192,

19 **JOHN VINCENT CASTALDO**  
20 23750 Hutchinson Road  
Los Gatos, California 95033

21 Original Pharmacist License No. RPH 31324,

22 **KAREN LYN MUIR**  
23 156 Dunsmuir Way  
Menlo Park, California 94025

24 Original Pharmacist License No. RPH 39228,

25 and  
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1 **CHRISTINE MOHEB STEPHANOS**  
2 **1845 Orangetree Lane**  
3 **Mountain View, California 94040**

4 **Original Pharmacist License No. RPH 61981,**  
5 Respondents.

6 Complainant Virginia Herold alleges:

7 **I. PARTIES**

8 1. Complainant brings this accusation solely in her official capacity as the Executive  
9 Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

10 2. On December 3, 2014, the Board issued Original Permit No. PHY 52537 to  
11 respondent Safeway Pharmacy Inc. (Safeway), d.b.a. Safeway Pharmacy #4905. Original Permit  
12 No. PHY 52537 was cancelled on March 6, 2015. On February 27, 2015, the Board issued  
13 Original Permit No. PHY 53416 to respondent Safeway Pharmacy #4905. Original Permit No.  
14 PHY 53416 will expire on January 1, 2016, unless renewed.

15 3. On December 13, 2012, the Board issued Original Permit No. PHY 51192 to  
16 respondent Safeway, d.b.a. Safeway Pharmacy #4526. Original Permit No. PHY 51192 was  
17 cancelled on January 9, 2015.

18 4. On August 8, 1977, the Board issued Original Pharmacist License No. RPH 31324  
19 to respondent John Vincent Castaldo. This original pharmacist license was in full force and effect  
20 at all times relevant to the charges brought in this accusation and will expire on December 31,  
21 2016, unless renewed.

22 5. On March 14, 1985, the Board issued Original Pharmacist License No.  
23 RPH 39228 to respondent Karen Lyn Muir. This original pharmacist license was in full force and  
24 effect at all times relevant to the charges brought in this accusation and will expire on April 30,  
25 2016, unless renewed.

26 6. On November 20, 2008, the Board issued Original Pharmacist License No. RPH  
27 61981 to respondent Christine Moheb Stephanos. This original pharmacist license was in full  
28 force and effect at all times relevant to the charges brought in this accusation and will expire on

1 January 31, 2016, unless renewed.

2 **II. JURISDICTION**

3 7. This accusation is brought before the Board under the authority of the following  
4 laws. All section references are to the Business and Professions Code unless otherwise indicated.

5 8. Section 4300 states in part:

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

7 "(b) The board shall discipline the holder of any license issued by the board, whose  
8 default has been entered or whose case has been heard by the board and found guilty, by any of  
9 the following methods:

10 "(1) Suspending judgment.

11 "(2) Placing him or her upon probation.

12 "(3) Suspending his or her right to practice for a period not exceeding one year.

13 "(4) Revoking his or her license.

14 "(5) Taking any other action in relation to disciplining him or her as the board in its  
15 discretion may deem proper."

16 9. Section 4300.1 states:

17 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by  
18 operation of law or by order or decision of the board or a court of law, the placement of a license  
19 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board  
20 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary  
21 proceeding against, the licensee or to render a decision suspending or revoking the license."

22 10. Section 4304 states:

23 "The board may deny, revoke, or suspend any license issued pursuant to Section 4161 for  
24 any violation of this chapter or for any violation of Part 5 (commencing with Section 109875) of  
25 Division 104 of the Health and Safety Code."

26 **III. STATUTORY AND REGULATORY PROVISIONS**

27 11. Section 4169, subdivision (a), states in part:

28 "A person or entity shall not do any of the following:

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

12. Section 4301 states in part:

“The board shall take action against any holder of a license who is guilty of 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 following:

...

“(e) Violating or attempting to violate, directly or indirectly, or assisting in or abetting 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 established by the board or by any other state or federal regulatory agency.”

13. Section 4306.5 states in part:

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

...

“(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 dispensing or furnishing of controlled substances, dangerous drugs, or dangerous devices, or with regard to the provision of services.”

14. Health and Safety Code section 111335 states:

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

15. Health and Safety Code section 111397 subdivision (a), states:

“Any foreign dangerous drug that is not approved by the United States Food and Drug Administration or that is obtained outside of the licensed supply chain regulated by the United States Food and Drug Administration, California State Board of Pharmacy, or State Department

1 of Public Health is misbranded.”

2 16. Health and Safety Code section 111400 states:

3 “Any drug or device is misbranded if it is dangerous to health when used in the dosage, or  
4 with the frequency or duration prescribed, recommended, or suggested in its labeling.”

5 17. Health and Safety Code section 111440 states:

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

8 18. California Code of Regulations, title 16, section 1735.3, subdivision (a), states in  
9 part:

10 “For each compounded drug product, the pharmacy records shall include:

11 ...

12 “(4) The identity of the pharmacist reviewing the final drug product.”

13 **IV. COST RECOVERY**

14 19. Section 125.3, subdivision (a), states:

15 “Except as otherwise provided by law, in any order issued in resolution of a disciplinary  
16 proceeding before any board within the department or before the Osteopathic Medical Board,  
17 upon request of the entity bringing the proceedings, the administrative law judge may direct a  
18 licentiate found to have committed a violation or violations of the licensing act to pay a sum not  
19 to exceed the reasonable costs of the investigation and enforcement of the case.”

20 **V. DRUGS**

21 20. Domperidone is an anti-dopaminergic drug which acts as an antiemetic and  
22 prokinetic agent. It is used relieve nausea and vomiting, and to increase lactation. It is a  
23 dangerous drug under Business and Professions Code section 4022. Although the United States  
24 Food and Drug Administration (FDA) may approve an application to use domperidone as an  
25 investigational new drug in treating various gastrointestinal conditions, the use of domperidone is  
26 not approved in the United States for any indication. The FDA has determined that any products  
27 containing domperidone are unapproved new drugs and misbranded. Consequently, any product  
28 containing domperidone violates the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et

1 seq.).

2 **VI. FACTUAL BACKGROUND**

3 21. On April 8, 2015, the Board inspected respondent Safeway at its present address of  
4 record. The inspectors found a 500 gram bulk powder container of domperidone with an  
5 expiration date of January 30, 2018. The container stated "NOT FOR HUMAN USE NOT FOR  
6 US[E] IN FOOD[-]PRODUCING ANIMALS." Respondent Castaldo, the pharmacist-in-charge  
7 at respondent Safeway, said that Safeway had been compounding domperidone. He said that the  
8 domperidone manufacturer told him that the FDA told the manufacturer to put the warning on the  
9 label but it is safe to use on humans. Respondent Castaldo told the inspectors that the  
10 Professional Compounding Centers of America said to keep compounding with domperidone  
11 until "somebody shuts you down." He said that nevertheless respondent Safeway had stopped  
12 compounding domperidone about a month before the inspection. The inspectors embargoed the  
13 domperidone.

14 22. Worksheets show the following instances of domperidone compounding at  
15 respondent Safeway. All worksheets list respondent Castaldo as the pharmacist.

- 16 a) 7/21/14 600 10mg capsules Checked by Muir  
17 b) 10/8/14 300 30mg capsules Checked by Muir  
18 c) 10/27/14 300 10mg capsules Checked by Castaldo  
19 d) 11/13/14 300 10mg capsules Checked by Muir  
20 e) 12/11/14 300 10mg capsules Checked by [unknown]  
21 f) 1/12/15 300 10mg capsules Checked by [blank]  
22 g) 2/6/15 300 20mg capsules Checked by [blank]  
23 h) 2/18/15 300 10mg capsules Checked by [blank]  
24 i) 3/4/15 300 20mg capsules Checked by [blank]<sup>1</sup>

25 23. Pharmacy records show respondent Safeway dispensed approximately 423  
26 prescriptions for domperidone totaling approximately 45,898 capsules ranging from 5mg to

27 <sup>1</sup> Instances a) through e) are attributable to respondent Safeway PHY 51192, f)  
28 through h) to respondent Safeway PHY 52537, and i) to respondent Safeway PHY 53416.

1 40mg. Approximately 374 of these prescriptions totaling approximately 28,693 capsules were  
2 dispensed by respondent Safeway PHY 51192, approximately 39 prescriptions totaling  
3 approximately 16,263 capsules by respondent Safeway PHY 52537, and approximately 10  
4 prescriptions totaling approximately 942 capsules by respondent Safeway PHY 53416.

5 24. Respondent Castaldo dispensed and verified approximately 190 prescriptions for  
6 domperidone totaling approximately 21,360 capsules. Respondent Muir dispensed and verified  
7 approximately 161 prescriptions totaling approximately 16,813 capsules. Respondent Stephanos  
8 dispensed and verified 72 prescriptions totaling approximately 7,725 capsules.

## 9 VII. CAUSES FOR DISCIPLINE

### 10 A. Safeway PHY 51192

#### 11 **First Cause for Discipline**

12 **Unprofessional Conduct – Manufacturing Misbranded Drugs**  
13 **Business and Professions Code sections 4301, subdivision (o), 4169, subdivision (a)(3),**  
14 **Health and Safety Code section 111440**

15 25. The allegations of paragraphs 20-24 are realleged and incorporated by reference as  
16 if fully set forth.

17 26. Respondent Safeway has subjected its Original Permit No. PHY 51192 to  
18 discipline for the unprofessional conduct of manufacturing misbranded drugs (Bus. & Prof. Code,  
19 §§ 4301, subd. (o), 4169, subd. (a)(3); Health and Saf. Code, § 111440). Approximately 28,693  
20 domperidone capsules were compounded at respondent Safeway PHY 51192.

#### 21 **Second Cause for Discipline**

22 **Unprofessional Conduct – Selling, Transferring, and Delivering Misbranded Drugs**  
23 **Business and Professions Code sections 4301, subdivision (o), 4169, subdivision (a)(3),**  
24 **Health and Safety Code section 111440**

25 27. The allegations of paragraphs 20-24 are realleged and incorporated by reference as  
26 if fully set forth.

27 28. Respondent Safeway has subjected its Original Permit No. PHY 51192 to  
28 discipline for the unprofessional conduct of selling, transferring, and delivering misbranded drugs  
(Bus. & Prof. Code, §§ 4301, subd. (o), 4169, subd. (a)(3); Health and Saf. Code, § 111440).  
Respondent Safeway PHY 51192 dispensed approximately 374 prescriptions for domperidone



1 totaling approximately 28,693 capsules.

2 **B. Safeway PHY 52537**

3 **Third Cause for Discipline**  
4 **Unprofessional Conduct – Manufacturing Misbranded Drugs**  
5 **Business and Professions Code sections 4301, subdivision (o), 4169, subdivision (a)(3),**  
6 **Health and Safety Code section 111440**

7 29. The allegations of paragraphs 20-24 are realleged and incorporated by reference as  
8 if fully set forth.

9 30. Respondent Safeway has subjected its Original Permit No. PHY 52537 to  
10 discipline for the unprofessional conduct of manufacturing misbranded drugs (Bus. & Prof. Code,  
11 §§ 4301, subd. (o), 4169, subd. (a)(3); Health and Saf. Code, § 111440). Approximately 16,263  
12 domperidone capsules were compounded at respondent Safeway PHY 52537.

13 **Fourth Cause for Discipline**  
14 **Unprofessional Conduct – Selling, Transferring, and Delivering Misbranded Drugs**  
15 **Business and Professions Code sections 4301, subdivision (o), 4169, subdivision (a)(3),**  
16 **Health and Safety Code section 111440**

17 31. The allegations of paragraphs 20-24 are realleged and incorporated by reference as  
18 if fully set forth.

19 32. Respondent Safeway has subjected its Original Permit No. PHY 52537 to  
20 discipline for the unprofessional conduct of selling, transferring, and delivering misbranded drugs  
21 (Bus. & Prof. Code, §§ 4301, subd. (o), 4169, subd. (a)(3); Health and Saf. Code, § 111440).  
22 Respondent Safeway PHY 52537 dispensed approximately 39 prescriptions for domperidone  
23 totaling approximately 16,263 capsules.

24 **C. Safeway PHY 53416**

25 **Fifth Cause for Discipline**  
26 **Unprofessional Conduct – Manufacturing Misbranded Drugs**  
27 **Business and Professions Code sections 4301, subdivision (o), 4169, subdivision (a)(3),**  
28 **Health and Safety Code section 111440**

33. The allegations of paragraphs 20-24 are realleged and incorporated by reference as  
if fully set forth.

34. Respondent Safeway has subjected its Original Permit No. PHY 53416 to

1 discipline for the unprofessional conduct of manufacturing misbranded drugs (Bus. & Prof. Code,  
2 §§ 4301, subd. (o), 4169, subd. (a)(3); Health and Saf. Code, § 111440). Approximately 942  
3 domperidone capsules were compounded at respondent Safeway PHY 53416.

4 **Sixth Cause for Discipline**  
5 **Unprofessional Conduct – Selling, Transferring, and Delivering Misbranded Drugs**  
6 **Business and Professions Code sections 4301, subdivision (o), 4169, subdivision (a)(3),**  
7 **Health and Safety Code section 111440**

8 35. The allegations of paragraphs 20-24 are realleged and incorporated by reference as  
9 if fully set forth.

10 36. Respondent Safeway has subjected its Original Permit No. PHY 53416 to  
11 discipline for the unprofessional conduct of selling, transferring, and delivering misbranded drugs  
12 (Bus. & Prof. Code, §§ 4301, subd. (o), 4169, subd. (a)(3); Health and Saf. Code, § 111440).  
13 Respondent Safeway PHY 53416 dispensed approximately 10 prescriptions for domperidone  
14 totaling approximately 942 capsules.

15 **D. Castaldo**

16 **Seventh Cause for Discipline**  
17 **Unprofessional Conduct – Manufacturing Misbranded Drugs**  
18 **Business and Professions Code sections 4301, subdivision (o), 4169, subdivision (a)(3),**  
19 **Health and Safety Code section 111440**

20 37. The allegations of paragraphs 20-24 are realleged and incorporated by reference as  
21 if fully set forth.

22 38. Respondent Castaldo has subjected his original pharmacist license to discipline for  
23 the unprofessional conduct of manufacturing misbranded drugs (Bus. & Prof. Code, §§ 4301,  
24 subd. (o), 4169, subd. (a)(3); Health and Saf. Code, § 111440). Respondent compounded  
25 domperidone.

26 **Eighth Cause for Discipline**  
27 **Unprofessional Conduct – Selling, Transferring, and Delivering Misbranded Drugs**  
28 **Business and Professions Code sections 4301, subdivision (o), 4169, subdivision (a)(3),**  
Health and Safety Code section 111440

39. The allegations of paragraphs 20-24 are realleged and incorporated by reference as  
if fully set forth.

1           40.    Respondent Castaldo has subjected his original pharmacist license to discipline for  
2 the unprofessional conduct of selling, transferring, and delivering misbranded drugs (Bus. & Prof.  
3 Code, §§ 4301, subd. (o), 4169, subd. (a)(3); Health and Saf. Code, § 111440). Respondent  
4 Castaldo dispensed and verified approximately 190 prescriptions for domperidone totaling  
5 approximately 21,360 capsules.

6                                   **Ninth Cause for Discipline**  
7                   **Unprofessional Conduct – Failure to Exercise or Implement Best Professional Judgment or**  
8                                   **Corresponding Responsibility**  
9                                   **Business and Professions Code sections 4301, 4306.5, subdivision (b)**

9           41.    The allegations of paragraphs 20-24 are realleged and incorporated by reference as  
10 if fully set forth.

11           42.    Respondent Castaldo has subjected his original pharmacist license to discipline for  
12 the unprofessional conduct of failing to exercise or implement his best professional judgment or  
13 corresponding responsibility with regard to the dispensing or furnishing of dangerous drugs (Bus.  
14 & Prof. Code, §§ 4301, 4306.5, subd. (b)). Respondent compounded, dispensed, and verified  
15 prescriptions for domperidone.

16                                   **Tenth Cause for Discipline**  
17                   **Unprofessional Conduct – Failure to Identify Identity of Reviewing Pharmacist**  
18                                   **Business and Professions Code section 4301, subdivision (o),**  
19                                   **California Code of Regulations, title 16, section 1735.3, subdivision (a)**

19           43.    The allegations of paragraphs 20-24 are realleged and incorporated by reference as  
20 if fully set forth.

21           44.    Respondent Castaldo has subjected his original pharmacist license to discipline for  
22 the unprofessional conduct of failing to identify the pharmacist reviewing the final drug product  
23 (Bus. & Prof. Code, § 4301, subd. (o); Cal. Code Regs., tit. 16, § 1735.3, subd. (a)). Respondent  
24 Castaldo was the pharmacist-in-charge at respondent Safeway. Four compounding worksheets  
25 for domperidone did not include the identity of the pharmacist who reviewed the final drug  
26 product.

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28

1 E. Muir

2 **Eleventh Cause for Discipline**  
3 **Unprofessional Conduct – Manufacturing Misbranded Drugs**  
4 **Business and Professions Code sections 4301, subdivision (o), 4169, subdivision (a)(3),**  
5 **Health and Safety Code section 111440**

6 45. The allegations of paragraphs 20-24 are realleged and incorporated by reference as  
7 if fully set forth.

8 46. Respondent Muir has subjected her original pharmacist license to discipline for the  
9 unprofessional conduct of manufacturing misbranded drugs (Bus. & Prof. Code, §§ 4301, subd.  
10 (o), 4169, subd. (a)(3); Health and Saf. Code, § 111440). Respondent compounded domperidone.

11 **Twelfth Cause for Discipline**  
12 **Unprofessional Conduct – Selling, Transferring, and Delivering Misbranded Drugs**  
13 **Business and Professions Code sections 4301, subdivision (o), 4169, subdivision (a)(3),**  
14 **Health and Safety Code section 111440**

15 47. The allegations of paragraphs 20-24 are realleged and incorporated by reference as  
16 if fully set forth.

17 48. Respondent Muir has subjected her original pharmacist license to discipline for the  
18 unprofessional conduct of selling, transferring, and delivering misbranded drugs (Bus. & Prof.  
19 Code, §§ 4301, subd. (o), 4169, subd. (a)(3); Health and Saf. Code, § 111440). Respondent Muir  
20 dispensed and verified approximately 161 prescriptions for domperidone totaling approximately  
21 16,813 capsules.

22 **Thirteenth Cause for Discipline**  
23 **Unprofessional Conduct – Failure to Exercise or Implement Best Professional Judgment or**  
24 **Corresponding Responsibility**  
25 **Business and Professions Code sections 4301, 4306.5, subdivision (b)**

26 49. The allegations of paragraphs 20-24 are realleged and incorporated by reference as  
27 if fully set forth.

28 50. Respondent Muir has subjected her original pharmacist license to discipline for the  
unprofessional conduct of failing to exercise or implement her best professional judgment or  
corresponding responsibility with regard to the dispensing or furnishing of dangerous drugs (Bus.  
& Prof. Code, §§ 4301, 4306.5, subd. (b)). Respondent compounded, dispensed, and verified

1 prescriptions for domperidone.

2 **F. Stephanos**

3 **Fourteenth Cause for Discipline**  
4 **Unprofessional Conduct – Selling, Transferring, and Delivering Misbranded Drugs**  
5 **Business and Professions Code sections 4301, subdivision (o), 4169, subdivision (a)(3),**  
6 **Health and Safety Code section 111440**

7 51. The allegations of paragraphs 20-24 are realleged and incorporated by reference as  
8 if fully set forth.

9 52. Respondent Stephanos has subjected her original pharmacist license to discipline  
10 for the unprofessional conduct of selling, transferring, and delivering misbranded drugs (Bus. &  
11 Prof. Code, §§ 4301, subd. (o), 4169, subd. (a)(3); Health and Saf. Code, § 111440). Respondent  
12 Stephanos dispensed and verified 72 prescriptions for domperidone totaling approximately 7,725  
13 capsules.

14 **Thirteenth Cause for Discipline**  
15 **Unprofessional Conduct – Failure to Exercise or Implement Best Professional Judgment or**  
16 **Corresponding Responsibility**  
17 **Business and Professions Code sections 4301, 4306.5, subdivision (b)**

18 53. The allegations of paragraphs 20-24 are realleged and incorporated by reference as  
19 if fully set forth.

20 54. Respondent Stephanos has subjected her original pharmacist license to discipline  
21 for the unprofessional conduct of failing to exercise or implement her best professional judgment  
22 or corresponding responsibility with regard to the dispensing or furnishing of dangerous drugs  
23 (Bus. & Prof. Code, §§ 4301, 4306.5, subd. (b)). Respondent dispensed and verified prescriptions  
24 for domperidone.

25 **VIII. OTHER DISCIPLINARY CONSIDERATIONS**

26 55. To determine the degree of discipline, if any, to be imposed on Original Permit  
27 No. PHY 51192 issued to respondent Safeway Pharmacy Inc., d.b.a. Safeway Pharmacy #4626,  
28 complainant alleges that on February 18, 2014, the Board issued Citation No. CI 2013 60059  
against Original Permit No. PHY 51192 issued to respondent Safeway Pharmacy Inc., d.b.a.  
Safeway Pharmacy #4626. The citation assessed a civil penalty of \$1,000 against respondent

1 Safeway for not maintaining its location so that drugs are properly maintained, secured, and  
2 distributed (Bus. & Prof. Code, § 4301, subd. (o); Cal. Code Regs., tit. 16, § 1714, subd. (b)). An  
3 audit revealed losses of over 5,000 tablets of oxycodone. On March 3, 2014, respondent Safeway  
4 appealed the citation. Respondent Safeway withdrew its request for appeal on August 19, 2015,  
5 and paid the citation.

6 56. To determine the degree of discipline, if any, to be imposed on Original  
7 Pharmacist License No. RPH 31324 issued to respondent John Vincent Castaldo, complainant  
8 alleges that on February 18, 2014, the Board issued Citation No. CI 2013 60060 against  
9 respondent Castaldo's original pharmacist license. The citation assessed a civil penalty of \$1,000  
10 for not effectively controlling against theft or diversion of dangerous drugs, and the records for  
11 those drugs, as the pharmacist-in-charge (Cal. Code Regs., tit. 16, § 1714, subd. (d)). An audit  
12 revealed losses of over 5,000 tablets of oxycodone. On March 3, 2014, respondent Castaldo  
13 appealed the citation. Respondent Castaldo withdrew his request for appeal on August 14, 2015,  
14 and paid the citation.

#### 15 IX. PRAYER

16 WHEREFORE, complainant requests that a hearing be held on the matters alleged in this  
17 accusation, and that following the hearing, the Board of Pharmacy issues a decision:

- 18 1. Revoking or suspending Original Permit No. PHY 52537 issued to respondent  
19 Safeway Pharmacy Inc., d.b.a. Safeway Pharmacy #4905;
- 20 2. Revoking or suspending Original Permit No. PHY 53416 issued to respondent  
21 Safeway Pharmacy Inc., d.b.a. Safeway Pharmacy #4905;
- 22 3. Revoking or suspending Original Permit No. PHY 51192 issued to respondent  
23 Safeway Pharmacy Inc., d.b.a. Safeway Pharmacy #4626;
- 24 4. Revoking or suspending Original Pharmacist License No. RPH 31324 issued to  
25 respondent John Vincent Castaldo;
- 26 5. Revoking or suspending Original Pharmacist License No. RPH 39228 issued to  
27 respondent Karen Lyn Muir;
- 28 6. Revoking or suspending Original Pharmacist License No. RPH 61981 issued to

1 respondent Christine Moheb Stephanos;

2 7. Ordering respondent Safeway Pharmacy Inc., d.b.a. Safeway Pharmacy #4905,  
3 under Business and Professions Code section 125.3 to pay the Board of Pharmacy the reasonable  
4 costs of the investigation and enforcement of this case;

5 8. Ordering respondent Safeway Pharmacy Inc., d.b.a. Safeway Pharmacy #4626,  
6 under Business and Professions Code section 125.3 to pay the Board of Pharmacy the reasonable  
7 costs of the investigation and enforcement of this case;

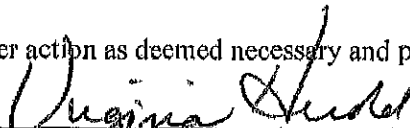
8 9. Ordering respondent John Vincent Castaldo under Business and Professions Code  
9 section 125.3 to pay the Board of Pharmacy the reasonable costs of the investigation and  
10 enforcement of this case;

11 10. Ordering respondent Karen Lyn Muir under Business and Professions Code  
12 section 125.3 to pay the Board of Pharmacy the reasonable costs of the investigation and  
13 enforcement of this case;

14 11. Ordering respondent Christine Moheb Stephanos under Business and Professions  
15 Code section 125.3 to pay the Board of Pharmacy the reasonable costs of the investigation and  
16 enforcement of this case; and

17 12. Taking such other and further action as deemed necessary and proper.

18 DATED: 12/22/15

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

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