

1 BILL LOCKYER, Attorney General
of the State of California
2 MICHEL W. VALENTINE, State Bar No. 153078
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3 California Department of Justice
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6 Attorneys for Complainant

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

10
11 In the Matter of the Accusation Against:

12 NORMAN ATSUTO MAEHARA
3 Dorado Place
13 Rolling Hills Estate, CA 90274
Pharmacist License No. RPH 29045

14 Respondent.

Case No. 2313

OAH No. L-2000120405

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
NORMAN ATSUTO MAEHARA
ONLY**

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17 In the interest of a prompt and speedy settlement of this matter, consistent with
18 the public interest and the responsibility of the Board of Pharmacy of the Department of
19 Consumer Affairs, ("Board"), the parties hereby agree to the following Stipulated Settlement and
20 Disciplinary Order which will be submitted to the Board for its approval and adoption as the
21 final disposition of the Accusation solely with respect to Norman Atsuto Maehara. It does not
22 apply to Respondent Meiji Pharmacy and Clifford Kunio Yamashita.

23 PARTIES

24 1. Complainant Patricia F. Harris is the Executive Officer of the Board of
25 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
26 by Bill Lockyer, Attorney General of the State of California, by Michel W. Valentine, Deputy
27 Attorney General.

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

3 CULPABILITY

4 9. Respondent understands that the charges and allegations in the
5 Accusation, if proven at a hearing, constitute cause for imposing discipline upon his Pharmacist
6 License.

7 10. Respondent, a minority shareholder, of Meiji Pharmacy, contends that he
8 did not participate and had no knowledge of the charge and allegations in Accusation No. 2313.

9 11. Respondent agrees that his Pharmacist License is subject to discipline and
10 he agrees to be bound by the Board's imposition of discipline as set forth in the Order below.

11 CONTINGENCY

12 12 This stipulation shall be subject to the approval of the Board. Respondent
13 understands and agrees that Board of Pharmacy's staff and counsel for Complainant may
14 communicate directly with the Board regarding this stipulation and settlement, without notice to
15 or participation by Respondent or his counsel. If the Board fails to adopt this stipulation as its
16 Order, except for this paragraph the Stipulated Settlement and Disciplinary Order shall be of no
17 force or effect, it shall be inadmissible in any legal action between the parties, and the Board
18 shall not be disqualified from further action by having considered this matter.

19 13. The parties agree that facsimile copies of this Stipulated Settlement and
20 Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as
21 the original Stipulated Settlement and Disciplinary Order and signatures.

22 14. In consideration of the foregoing admissions and stipulations, the parties
23 agree that the Board shall, without further notice or formal proceeding, issue and enter the
24 following Disciplinary Order:

25 DISCIPLINARY ORDER

26 IT IS HEREBY ORDERED that Pharmacist License Number RPH 29045 issued
27 to Respondent Norman Atsuto Maehara is suspended for ninety (90) days. However, the

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1 suspension is stayed and Respondent is placed on probation for one (1) year on the following
2 terms and conditions.

3 During Probation, Respondent shall:

4 **1. Obey All Laws**

5 Respondent shall obey all federal and state laws and regulations substantially
6 related or governing the practice of pharmacy.

7 **2. Reporting to the Board**

8 Respondent shall report to the Board or its designee quarterly. The report shall be
9 made either in person or in writing, as directed. If the final probation report is not made
10 as directed, probation shall be extended automatically until such time as the final report is
11 made.

12 **3. Interview with the Board**

13 Upon receipt of reasonable notice, respondent shall appear in person for
14 interviews with the Board or its designee upon request at various intervals at a location to be
15 determined by the Board or its designee. Failure to appear for a scheduled interview without
16 prior notification to Board staff shall be considered a violation of probation.

17 **4. Cooperation with Board Staff.**

18 Respondent shall cooperate with the Board's inspectional program and in the
19 Board's monitoring and investigation of the respondent's compliance with the terms and
20 conditions of his/her probation. Failure to cooperate shall be considered a violation of probation.

21 **5. Peer Review**

22 Respondent shall submit to peer review as deemed necessary by the Board.

23 **6. Continuing Education**

24 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
25 pharmacist as directed by the Board.

26 **7. Notice to Employers**

27 Respondent shall notify all present and prospective employers of the decision in
28 case No. 2313 and the terms, conditions and restrictions imposed on respondent by the decision.

1 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
2 respondent undertaking new employment, respondent shall cause his/her employer to report to
3 the Board in writing acknowledging the employer has read the decision in case No. 2313.

4 If respondent works for or is employed by or through a pharmacy employment
5 service, respondent must notify the pharmacist-in-charge and/or owner at every pharmacy at
6 which he is to employed or used of the fact and terms of the decision in case number 2313 in
7 advance of the respondent commencing work at the pharmacy. "Employment" within the
8 meaning of this provision shall include any full-time, part-time, temporary or relief service or
9 pharmacy management service as a pharmacist, whether the respondent is considered an
10 employee or independent contractor.

11 **8. No Preceptorships, Supervision of Interns, Being Pharmacist-in-Charge**

12 Respondent shall not supervise any intern pharmacist or perform any of the duties
13 of a preceptor. Respondent may continue as Pharmacist-in-Charge at the pharmacy where he is
14 currently employed.

15 **9. Probation Monitoring Costs**

16 Respondent shall pay the costs associated with probation monitoring as
17 determined by the Board each and every year of probation. Such costs shall be payable to the
18 Board at the end of each year of probation. Failure to pay such costs shall be considered a
19 violation of probation.

20 **10. Status of License**

21 Respondent shall, at all times while on probation, maintain an active current
22 license with the Board, including any period during which suspension or probation is tolled.
23 If respondent's license expires by operation of law or otherwise, upon renewal or reapplication,
24 respondent's license shall be subject to all terms of this probation not previously satisfied.

25 **11. Notification of Employment/Mailing Address Change**

26 Within ten (10) days of a change in employment -- either leaving or commencing
27 employment -- respondent shall so notify the Board in writing, including the address of the new
28 employer; within ten (10) days of a change of mailing address, respondent shall notify the Board

1 in writing. If respondent works for or is employed through a pharmacy employment service,
2 respondent shall, as requested, provide to the Board or its designee with a work schedule,
3 indicating dates and location of employment.

4 **12. Violation of Probation**

5 If respondent violates probation in any respect, the Board, after giving respondent
6 notice and an opportunity to be heard, may revoke probation and carry out the disciplinary
7 order which was stayed. If a petition to revoke probation or an accusation is filed against
8 respondent during probation, the Board shall have continuing jurisdiction, and the period of
9 probation shall be extended, until the petition to revoke probation is heard and decided.

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

15 **13. Completion of Probation**

16 Upon successful completion of probation, respondent's license will be fully
17 restored.

18 **14. No Ownership of Licensed Premises**

19 If respondent currently owns or has any legal or beneficial interest in, or
20 serve as a manager, administrator, member, officer, director, associate, or partner of any
21 business, firm, partnership, or corporation currently or hereinafter licensed by the Board,
22 respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
23 manager, administrator, member, officer, director, associate, or partner of any additional
24 business, firm, partnership, or corporation.

25 ACCEPTANCE

26 I have carefully read the above Stipulated Settlement and Disciplinary Order and
27 have fully discussed the terms and conditions and other matters contained therein with my
28 attorney John Berger Esq., I understand the effect this stipulation will have on my Pharmacist

JUL 24 01 05:14p

Talbert LB Pharmacy

(562)435-5101

1 agree that a facsimile copy of this Stipulated Settlement and Disciplinary Order, including
2 facsimile copies of signatures, may be used with the same force and effect as the originals.

3 DATED: 7/24/01

4 
5 NORMAN ATSUTO MAEHARA
6 Respondent

7
8 I have read and fully discussed with Respondent Norman Atsuto Maehara the
9 terms and conditions and other matters contained in the above Stipulated Settlement and
10 Disciplinary Order. I approve its form and content.

11 DATED: 7/24/01

12 
13 JOHN BERGER ESQ.
14 Attorney for Respondent

15 ENDORSEMENT

16
17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

19
20 DATED: 7/24/01

21 BILL LOCKYER, Attorney General
22 of the State of California

23 
24 MICHEL W. VALENTINE
25 Deputy Attorney General
26 Attorneys for Complainant

27 03583110-LA2000AD0845
28 kki:3-21-01

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

In the Matter of the Accusation Against:

NORMAN ATSUTO MAEHARA
3 Dorado Place
Rolling Hills Estate, CA 90274

Pharmacist License No. RPH 29045

Respondent.

Case No. 2313

OAH No. L-2000120405

DECISION AND ORDER

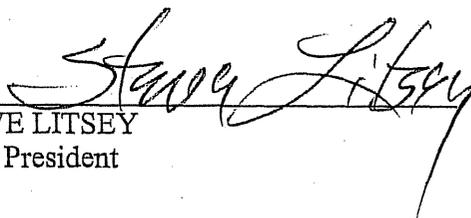
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy of the Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on December 15, 2001.

It is so ORDERED November 14, 2001.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STEVE LITSEY
Board President

1 BILL LOCKYER, Attorney General
of the State of California
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9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2313

12 CLIFFORD YAMASHITA and
13 NORMAN MAEHARA, doing business as
MEIJI PHARMACY
14 1620 West Redondo Beach Blvd.
Gardena, CA 90247
15 Clifford Yamashita, Partner
Norman Maehara, Partner
16 Pharmacy Permit Number No. PHY 38219,

A C C U S A T I O N

17 and

18 CLIFFORD KUNIO YAMASHITA
2260 Santa Fe
19 Torrance CA 90501
Pharmacist License Number No. RPH 29009,

20 and

21 NORMAN ATSUTO MAEHARA
3 Dorado Place
22 Rolling Hills Estate, CA 90274
23 Pharmacist License Number No. RPH 29045

24 Respondents

25
26 Complainant alleges:

27 PARTIES

28 1. Patricia F. Harris ("Complainant") brings this accusation solely in her

1 regulating controlled substances and dangerous drugs.

2 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
3 abetting the violation of, or conspiring to violate any provision or term of this chapter or
4 of the applicable federal and state laws and regulations governing pharmacy, including
5 regulations established by the Board, constitutes unprofessional conduct.

6 8. Section 4059 of the Code states, in pertinent part, that no person shall
7 furnish any dangerous drug upon the prescription of a physician, dentist, podiatrist, or
8 veterinarian. No person shall furnish any dangerous device, except upon the prescription of a
9 physician, dentist, podiatrist, optometrist, or veterinarian.

10 9. Section 4059.5(e) of the Code states, in pertinent part, that a dangerous
11 drug shall not be transferred, sold, or delivered to any person outside this state, whether foreign
12 or domestic, unless the transfer, seller, or deliver does so in compliance with the laws of this state
13 and of the United States and of the state or country to which the drugs are to be transferred, sold,
14 or delivered.

15 10. Section 4081(a) of the Code states, in pertinent part, that all records of
16 manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices
17 shall be at all times during business hours open to inspection by authorized officers of the law,
18 and shall be preserved for at least three years from the date of making.

19 11. Section 4332 of the Code states that any person who fails, neglects, or
20 refuses to maintain the records required by Section 4081 or who, when called upon by an
21 authorized officer or a member of the board fails, neglects, or refuses to produce or provide the
22 records within a reasonable time, or who willfully produces or furnishes records that are false, is
23 guilty of a misdemeanor.

24 12. Section 118 of the Code states, in pertinent part, that:

25 (b) The suspension, expiration, or forfeiture by operation of law of a license
26 issued by a board in the department, or its suspension, forfeiture, or cancellation by order
27 of the board or by order of a court of law, or its surrender without the written consent of
28 the board, shall not, during any period in which it may be renewed, restored, reissued, or

1 reinstated, deprive the board of its authority to institute or continue a disciplinary
2 proceeding against the licensee upon any ground provided by law or to enter an order
3 suspending or revoking the license or otherwise taking disciplinary action against the
4 licensee on any such ground.

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

9 14. DANGEROUS DRUG

10 A. "Viagra", a brand name for the generic drug Sildenafil Citrate is
11 categorized as a dangerous drug pursuant to section 4022 of the Code.

12
13 FIRST CAUSE FOR DISCIPLINE

14 (Violating Statutes of this State)

15 15. Respondents are subject to disciplinary action under sections 4300 and
16 4301 (j) on the grounds of unprofessional conduct for violating section 4059.5(e). On or about
17 August 3, 1998, an audit was conducted by an inspector for the Board. The audit revealed that
18 from on or about August 6, 1998 to on or about September 2, 1998, Respondent dispensed
19 approximately 93,660 Viagra tablets illegally to individuals living in Japan. During the audit,
20 the inspector discovered that Respondents were receiving fax requests for the drug Viagra
21 directly from Japan. Respondents would then prepare an airbill for each request and package the
22 Viagra for shipment pursuant to the instructions on the fax request. The drug, Viagra, has not
23 been approved by Japan and it is not legal to import the drug into Japan.

24
25 SECOND CAUSE FOR DISCIPLINE

26 (Dispensing Drugs Without Prescription)

27 16. Respondents are further subject to disciplinary action under sections 4300
28 and 4301(o) of the Code for violating section 4059. From on or about August 6, 1998 to on or

1 about September 2, 1998, Respondent dispensed Viagra tablets without prescriptions.
2 Respondent dispensed the drug solely from each fax request received from Japan and prepared an
3 airbill for shipment.

4
5 THIRD CAUSE FOR DISCIPLINE

6 (Failure to Maintain Current Records)

7 17. Respondents are further subjected to disciplinary action under sections
8 4300 and 4301(o) of the Code on the grounds of unprofessional conduct for violating sections
9 4081(a) of the Code in conjunction with section 1718 of Title 16, California Code of
10 Regulations, for failing to keep a complete, accurate, and current inventory or complete
11 accountability of dangerous drugs for three (3) years. Respondent did not have prescriptions
12 documents for the dispensing of the drug, Viagra, only airbills and, therefore, was unable to
13 know what strengths were dispensed.

14 18. Respondents are further subject to disciplinary action under sections 4300
15 and 4301(o) of the Code on the grounds of unprofessional conduct for violating sections 4332.
16 On August 3, 1998, an investigator for the Board requested copies of acquisition and disposition
17 records for all strengths of Viagra for the last year. Respondent submitted disposition records
18 but failed to submit acquisitions record from Respondent Pharmacy.

19
20 OTHER MATTERS

21 13. Business and Professions Code section 4307 provides, in pertinent part, that
22 any person whose license or permit has been revoked or is under suspension, or who has been
23 placed on probation, and while acting as the manager, administrator, owner, member, officer,
24 director, associate, or partner has knowledge of or knowingly participated in any conduct for
25 which the license was denied, revoked, suspended, or placed on probation, shall be prohibited
26 from serving as a manager, administrator, owner, member, officer, director, associate, or partner
27 of a licensee.

28

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MEIJI PHARMACY
14 1620 West Redondo Beach Blvd.
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15 Clifford Yamashita, Partner
Norman Maehara, Partner
16 Pharmacy Permit Number No. PHY 38219,

17 and

18 CLIFFORD KUNIO YAMASHITA
2260 Santa Fe
19 Torrance CA 90501
Pharmacist License Number No. RPH 29009,

20 and

21 NORMAN ATSUTO MAEHARA
3 Dorado Place
22 Rolling Hills Estate, CA 90274
23 Pharmacist License Number No. RPH 29045

24 Respondents

Case No. 2313

A C C U S A T I O N

25
26 Complainant alleges:

27 PARTIES

28 1. Patricia F. Harris ("Complainant") brings this accusation solely in her

1 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
2 Affairs.

3 2. On October 22, 1992, the Board of Pharmacy issued Pharmacist Permit
4 Number PHY 38219 to Clifford Yamashita and Norman Maehara, to do business as Meiji
5 Pharmacy ("Respondent Pharmacy"). The Pharmacist Permit was in full force and effect at all
6 times relevant to the charges brought herein and will expire on October 1, 2001, unless renewed.
7 The corporate officers are Clifford Yamashita, RPH 29009, Partner and Norman Maehara, RPH
8 29045, Partner since October 22, 1992. Clifford Yamashita, has been the Pharmacist-in-Charge
9 since October 22, 1992.

10 3. On July 17, 1974, the Board of Pharmacy issued Pharmacist License
11 Number RPH 29009 to Clifford Kunio Yamashita ("Respondent Yamashita"). The Pharmacist
12 License was in full force and effect at all times relevant to the charges brought herein and will
13 expire on July 31, 2002, unless renewed.

14 4. On July 17, 1974, the Board of Pharmacy issued Pharmacist License
15 Number RPH 29045 to Norman Atsuto Maehara ("Respondent Maehara"). The Pharmacist
16 License was in full force and effect at all times relevant to the charges brought herein and will
17 expire on January 31, 2002, unless renewed.

18

19

JURISDICTION

20 5. This Accusation is brought before the Board of Pharmacy ("Board"),
21 under the authority of the following sections of the Business and Professions Code ("Code").

22 6. Section 4300 of the Code permits the Board to take disciplinary action to
23 suspend or revoke a license issued by the Board.:

24 7. Section 4301 of the Code states that the Board shall take action against
25 any holder of a license who is guilty of unprofessional conduct or whose license has been
26 procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall
27 include, but is not limited to, any of the following:

28 (j) The violation of any of the statutes of this state or of the United States

1 regulating controlled substances and dangerous drugs.

2 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
3 abetting the violation of, or conspiring to violate any provision or term of this chapter or
4 of the applicable federal and state laws and regulations governing pharmacy, including
5 regulations established by the Board, constitutes unprofessional conduct.

6 8. Section 4059 of the Code states, in pertinent part, that no person shall
7 furnish any dangerous drug upon the prescription of a physician, dentist, podiatrist, or
8 veterinarian. No person shall furnish any dangerous device, except upon the prescription of a
9 physician, dentist, podiatrist, optometrist, or veterinarian.

10 9. Section 4059.5(e) of the Code states, in pertinent part, that a dangerous
11 drug shall not be transferred, sold, or delivered to any person outside this state, whether foreign
12 or domestic, unless the transfer, seller, or deliver does so in compliance with the laws of this state
13 and of the United States and of the state or country to which the drugs are to be transferred, sold,
14 or delivered.

15 10. Section 4081(a) of the Code states, in pertinent part, that all records of
16 manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices
17 shall be at all times during business hours open to inspection by authorized officers of the law,
18 and shall be preserved for at least three years from the date of making.

19 11. Section 4332 of the Code states that any person who fails, neglects, or
20 refuses to maintain the records required by Section 4081 or who, when called upon by an
21 authorized officer or a member of the board fails, neglects, or refuses to produce or provide the
22 records within a reasonable time, or who willfully produces or furnishes records that are false, is
23 guilty of a misdemeanor.

24 12. Section 118 of the Code states, in pertinent part, that:

25 (b) The suspension, expiration, or forfeiture by operation of law of a license
26 issued by a board in the department, or its suspension, forfeiture, or cancellation by order
27 of the board or by order of a court of law, or its surrender without the written consent of
28 the board, shall not, during any period in which it may be renewed, restored, reissued, or

1 reinstated, deprive the board of its authority to institute or continue a disciplinary
2 proceeding against the licensee upon any ground provided by law or to enter an order
3 suspending or revoking the license or otherwise taking disciplinary action against the
4 licensee on any such ground.

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

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10 A. "Viagra", a brand name for the generic drug Sildenafil Citrate is
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18 from on or about August 6, 1998 to on or about September 2, 1998, Respondent dispensed
19 approximately 93,660 Viagra tablets illegally to individuals living in Japan. During the audit,
20 the inspector discovered that Respondents were receiving fax requests for the drug Viagra
21 directly from Japan. Respondents would then prepare an airbill for each request and package the
22 Viagra for shipment pursuant to the instructions on the fax request. The drug, Viagra, has not
23 been approved by Japan and it is not legal to import the drug into Japan.

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26 (Dispensing Drugs Without Prescription)

27 16. Respondents are further subject to disciplinary action under sections 4300
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2 Respondent dispensed the drug solely from each fax request received from Japan and prepared an
3 airbill for shipment.
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6 (Failure to Maintain Current Records)

7 17. Respondents are further subjected to disciplinary action under sections
8 4300 and 4301(o) of the Code on the grounds of unprofessional conduct for violating sections
9 4081(a) of the Code in conjunction with section 1718 of Title 16, California Code of
10 Regulations, for failing to keep a complete, accurate, and current inventory or complete
11 accountability of dangerous drugs for three (3) years. Respondent did not have prescriptions
12 documents for the dispensing of the drug, Viagra, only airbills and, therefore, was unable to
13 know what strengths were dispensed.

14 18. Respondents are further subject to disciplinary action under sections 4300
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17 records for all strengths of Viagra for the last year. Respondent submitted disposition records
18 but failed to submit acquisitions record from Respondent Pharmacy.
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20 OTHER MATTERS

21 13. Business and Professions Code section 4307 provides, in pertinent part, that
22 any person whose license or permit has been revoked or is under suspension, or who has been
23 placed on probation, and while acting as the manager, administrator, owner, member, officer,
24 director, associate, or partner has knowledge of or knowingly participated in any conduct for
25 which the license was denied, revoked, suspended, or placed on probation, shall be prohibited
26 from serving as a manager, administrator, owner, member, officer, director, associate, or partner
27 of a licensee.
28

1 PRAYER

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

- 4 1. Revoking or suspending Pharmacist Permit Number Number PHY 38219,
5 issued to Meiji Pharmacy;
- 6 2. Revoking or suspending Pharmacist License Number Number RPH 29009,
7 issued to Clifford Kunio Yamashita;
- 8 3. Revoking or suspending Pharmacist License Number Number RPH 29045,
9 issued to Norman Atsuto Maehara;
- 10 4. Ordering Meiji Pharmacy, Clifford Kunio Yamashita and Norman Atsuto
11 Maehara to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement
12 of this case, pursuant to Business and Professions Code section 125.3;
- 13 5. Taking such other and further action as deemed necessary and proper.

14 DATED: 11/14/00

15
16
17 P. J. Harris
18 PATRICIA F. HARRIS
19 Executive Officer
20 Board of Pharmacy
21 Department of Consumer Affairs

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27 State of California
28 Complainant