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

11 In the Matter of the Accusation Against:

Case No. 3662

12 **MEYERS PHARMACY INC.**  
13 **dba DE SOTO PHARMACY;**  
**Jerry Meyers, President and Pharmacist-In-**  
14 **Charge**  
20914 Roscoe Boulevard  
Canoga Park, CA 91304

**ACCUSATION**

15 Pharmacy Permit No. PHY 32271,

16 and

17 **JERRY MEYERS**  
18 20914 Roscoe Blvd.  
19 Canoga Park, CA 91304

20 Pharmacist License No. RPH 24673

21 Respondents.

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 (Board).

26 **De Soto Pharmacy Permit**

27 2. On or about July 1, 1985, the Board issued Pharmacy Permit No. PHY 32271 to  
28 Meyers Pharmacy Inc. doing business as De Soto Pharmacy; Jerry Meyers, President and

1 Pharmacist-In-Charge (Respondent De Soto Pharmacy). The Pharmacy Permit was in full force  
2 and effect at all times relevant to the charges brought herein and will expire on July 1, 2011,  
3 unless renewed.

4 **Pharmacist License**

5 3. On or about August 12, 1966, the Board issued Pharmacist License No. RPH 24673  
6 to Jerry Meyers (Respondent Meyers). The Pharmacist License was in full force and effect at all  
7 times relevant to the charges brought herein and will expire on November 30, 2011, unless  
8 renewed.

9 **JURISDICTION**

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

12 **STATUTORY PROVISIONS**

13 5. Section 118, subdivision (b), provides that the suspension, expiration, surrender or  
14 cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary  
15 action during the period within which the license may be renewed, restored, reissued or  
16 reinstated.

17 6. Section 4081 states:

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

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1 (b) The owner, officer, and partner of a pharmacy, wholesaler, or veterinary food-animal  
2 drug retailer shall be jointly responsible, with the pharmacist-in-charge or designated  
3 representative-in-charge, for maintaining the records and inventory described in this section.

4 (c) The pharmacist-in-charge or designated representative-in-charge shall not be  
5 criminally responsible for acts of the owner, officer, partner, or employee that violate this section  
6 and of which the pharmacist-in-charge or designated representative-in-charge had no knowledge,  
7 or in which he or she did not knowingly participate.”

8 7. Section 4300, subdivision (a), states that “[e]very license issued may be suspended or  
9 revoked.”

10 8. Section 4301 states, in pertinent part:

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

14 . . . .

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

19 **REGULATORY PROVISIONS**

20 9. California Code of Regulations, title 16, section 1718, states:

21 “‘Current Inventory’ as used in Sections 4081 and 4332 of the Business and Professions  
22 Code shall be considered to include complete accountability for all dangerous drugs handled by  
23 every licensee enumerated in Sections 4081 and 4332.

24 The controlled substances inventories required by Title 21, CFR, Section 1304 shall be  
25 available for inspection upon request for at least 3 years after the date of the inventory.”

26 **COST RECOVERY**

27 10. Section 125.3 states, in pertinent part, that the Board may request the administrative  
28 law judge to direct a licensee found to have committed a violation or violations of the licensing

1 act to pay a sum n( ) exceed the reasonable costs of the inv( )gation and enforcement of the  
2 case.

3 **CAUSE FOR DISCIPLINE**

4 ***(Failure to Take Inventories and Maintain Inventory Records)***

5 11. Respondents are subject to disciplinary action under section 4301, subdivision (o), on  
6 the grounds of unprofessional conduct, for violating section 4081 and California Code of  
7 Regulations, title 16, section 1718, in that, on and between May 27, 2007, and April 15, 2009,  
8 Respondents failed to take regular inventory of its controlled substances and failed to maintain  
9 controlled substance inventory records on the premises. The circumstances are as follows:

10 a. In or about April 2009, Respondents initiated an internal pharmacy investigation  
11 regarding pharmacy losses.

12 b. On or about April 11, 2009, a pharmacy employee was viewed via video surveillance  
13 removing from pharmacy shelves and premises a 500 count bottle of Norco and taking it out to  
14 his vehicle.

15 c. On or about April 19, 2009, De Soto Pharmacy completed its inventory of  
16 Hydrocodone, Norco and Vicodin, losses and reported the loss to police and the Federal Drug  
17 Enforcement Administration. Respondents' filed "Report of Theft or Loss of Controlled  
18 Substances" acknowledged losses of 43,000 tablets of Norco and 62,000 tablets of Vicodin ES,  
19 on and between May 27, 2007 and April 15, 2009.

20 d. On or about April 20, 2009, Respondents filed a police report for the pharmacy  
21 losses.

22 **PRAYER**

23 *WHEREFORE*, Complainant requests that a hearing be held on the matters herein alleged,  
24 and that following the hearing, the Board issue a decision:

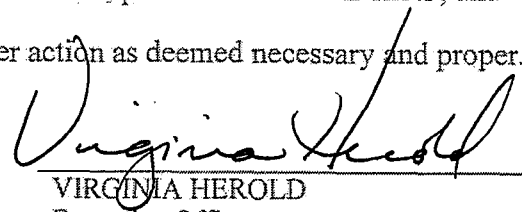
25 1. Revoking or suspending Pharmacy Permit No. PHY 32271, issued to Meyers  
26 Pharmacy Inc. doing business as De Soto Pharmacy; Jerry Meyers, President and Pharmacist-In-  
27 Charge;

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2. Revoke or suspending Pharmacist License No. H 24673, issued to Jerry Meyers;
3. Ordering De Soto Pharmacy and Jerry Meyers to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
4. Taking such other and further action as deemed necessary and proper.

DATED: 12/30/10



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