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of the State of California  
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4 Los Angeles, CA 90013  
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6 Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 2649

11 **MICHAEL LEE MAGRUDER**

~~2 Exeter Ct 39368 WARM SPRINGS DR~~

~~Rancho Mirage, CA 92270-2554~~

12 **PALM DESERT, CA 92260**  
13 Original Pharmacist License No. RPH 27148

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

14 and

15 **THIRTEENTH AVENUE MEDICAL**  
**PHARMACY, INC.,**  
16 **DOING BUSINESS AS THIRTEENTH**  
**AVENUE MEDICAL PHARMACY**  
17 **MICHAEL L. MAGRUDER, PRESIDENT**  
630 North 13<sup>th</sup> Avenue, Suite G  
18 Upland, CA 91786

19 Original Pharmacist Permit No. PHY 31096

20 Respondents.

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

24 **PARTIES**

25 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of  
26 Pharmacy. She brought this action solely in her official capacity and is represented in this matter  
27 by Bill Lockyer, Attorney General of the State of California, by Desiree A. Phillips, Deputy  
28 Attorney General.

1                     2.       Michael Lee Magruder (Respondent) is representing himself in this  
2 proceeding and has chosen not to exercise his right to be represented by counsel.

3                     3.       On or about June 9, 1971, the Board of Pharmacy issued Original  
4 Pharmacist License RPH 27148 to Michael Lee Magruder (Respondent). The license will expire  
5 on January 31, 2005 unless renewed.

6                     4.       On or about March 1, 1985, the Board of Pharmacy issued Original  
7 Pharmacy Permit No. PHY 31096 to Thirteenth Avenue Medical Pharmacy, Inc., doing business  
8 as Thirteenth Avenue Medical Pharmacy, Michael Magruder, president (Respondent Pharmacy).  
9 The Original Pharmacy Permit expired on March 1, 2004; however, there was a discontinuance  
10 of business filed on June 12, 2003.

11   **JURISDICTION**

12                     5.       Accusation No. 2649 was filed before the Board of Pharmacy (Board),  
13 Department of Consumer Affairs, and is currently pending against Respondents. The Accusation  
14 and all other statutorily required documents were properly served on Respondents on October 29,  
15 2004. On October 9, 2003, Respondent Magruder stipulated as part of his plea and sentencing in  
16 the case *People of the State of California v. Michael Lee Magruder*, Case No. FWV 028143,  
17 Superior Court of California, County of San Bernardino, that upon service of this Accusation, he  
18 would execute this stipulation to the revocation of his Original Pharmacist License Number RPH  
19 27148 and Original Pharmacy Permit Number PHY 31096. Respondents execute this stipulation  
20 in lieu of filing any Notice of Defense. A copy of Accusation No. 2649 is attached as exhibit A  
21 and incorporated herein by reference.

22   **ADVISEMENT AND WAIVERS**

23                     6.       Respondents have carefully read, fully discussed with counsel, and  
24 understands the charges and allegations in Accusation No. 2649. Respondents have also  
25 carefully read, fully discussed with counsel, and understand the effects of this Stipulated  
26 Settlement and Disciplinary Order.

27       ///

28       ///

1 7. Respondents are fully aware of their legal rights in this matter, including  
2 the right to a hearing on the charges and allegations in the Accusation; the right to be represented  
3 by counsel at their own expense; the right to confront and cross-examine the witnesses against  
4 them; the right to present evidence and to testify on their own behalf; the right to the issuance of  
5 subpoenas to compel the attendance of witnesses and the production of documents; the right to  
6 reconsideration and court review of an adverse decision; and all other rights accorded by the  
7 California Administrative Procedure Act and other applicable laws.

8 8. Respondents voluntarily, knowingly, and intelligently waive and give up  
9 each and every right set forth above. Respondent Magruder waived the rights to a hearing on the  
10 Accusation as part of the terms and conditions of his criminal plea and sentencing on October 9,  
11 2003.

12 **CULPABILITY**

13 9. Respondents admit the truth of each and every charge and allegation in  
14 Accusation No. 2649.

15 10. Respondents agrees that their Original Pharmacist License Number RPH  
16 27148 and Original Pharmacy Permit Number 31096 are subject to discipline, and they agree to  
17 be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

18 **CONTINGENCY**

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

1 12. The parties understand and agree that facsimile copies of this Stipulated  
2 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
3 force and effect as the originals.

4 13. In consideration of the foregoing admissions and stipulations, the parties  
5 agree that the Board may, without further notice or formal proceeding, issue and enter the  
6 following Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Original Pharmacist License Number RPH  
9 27148 and Original Pharmacy Permit Number PHY 31096 issued to Respondent Michael Lee  
10 Magruder and Respondent Thirteenth Avenue Medical Pharmacy, Inc., are revoked.

11 **Costs.** Respondent shall pay the Board its costs of investigation and enforcement  
12 in the amount of \$31,000.00 prior to issuance of a new or reinstated license.


13 **ACCEPTANCE**

14 I have carefully read the above Stipulated Settlement and Disciplinary Order and  
15 have fully discussed it with my attorney, Benjamin Coleman, Esq. I understand the stipulation  
16 and the effect it will have on my Original Pharmacist License Number RPH 27148 and Original  
17 Pharmacy Permit Number PHY 31096. I enter into this Stipulated Settlement and Disciplinary  
18 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order  
19 of the Board of Pharmacy.

20 DATED: 3-28-05.

21  
22   
23 MICHAEL LEE MAGRUDER Respondent RESPONDENT

24  
25 DATED: 3-28-05.

26 THIRTEENTH AVE MED PHCY  
27 by  
28   
THIRTEENTH AVENUE MEDICAL PHARMACY  
by Michael Lee Magruder, president

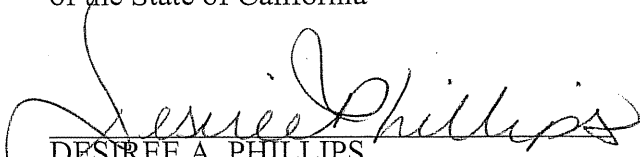
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ENDORSEMENT

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: 4-4-05.

BILL LOCKYER, Attorney General  
of the State of California



DESIREE A. PHILLIPS  
Deputy Attorney General

Attorneys for Complainant

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

In the Matter of the Accusation Against:

Case No. 2649

**MICHAEL LEE MAGRUDER**

3 Exeter Ct  
Rancho Mirage, CA 92270-2554

Original Pharmacist License No. RPH 27148

and

**THIRTEENTH AVENUE MEDICAL PHARMACY, NC.**

**dba THIRTEENTH AVENUE MEDICAL PHARMACY**

MICHAEL L. MAGRUDER, PRESIDENT

630 North 13<sup>th</sup> Avenue, Suite G  
Upland, CA 91786

Original Pharmacy Permit No. PHY 31096

Respondents.

**DECISION AND ORDER**

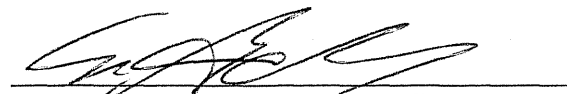
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on May 27, 2005.

It is so ORDERED April 27, 2005.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



STANLEY W. GOLDENBERG  
Board President

**EXHIBITA**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 DESIREE A. PHILLIPS, State Bar No. 157464  
Deputy Attorney General  
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**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
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10 In the Matter of the Accusation Against:

Case No. 2649

11 **MICHAEL LEE MAGRUDER**  
12 3 Exeter Ct  
Rancho Mirage, CA 92270-2554

**A C C U S A T I O N**

13 Original Pharmacist License No. RPH 27148

14 and

15 **THIRTEENTH AVENUE MEDICAL**  
16 **PHARMACY, INC.,**  
17 **DOING BUSINESS AS THIRTEENTH**  
**AVENUE MEDICAL PHARMACY**  
18 MICHAEL L. MAGRUDER, PRESIDENT  
630 North 13th Avenue, Suite G  
Upland, CA 91786

19 Original Pharmacist Permit No. PHY 31096,

20 Respondents.  
21

22 Complainant alleges:

23 **PARTIES**

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

27 2. On or about June 9, 1971, the Board of Pharmacy issued Original  
28 Pharmacist License No. RPH 27148 to Michael Lee Magruder (Respondent Magruder). The



1 Original Pharmacist License is under disciplinary suspension and will expire on January 31,  
2 2005, unless renewed.

3 3. On or about March 1, 1985, the Board of Pharmacy issued Original  
4 Pharmacy Permit No. PHY 31096 to Thirteenth Avenue Medical Pharmacy, Inc., doing business  
5 as Thirteenth Avenue Medical Pharmacy, Michael L. Magruder, President-Partner (Respondent  
6 Pharmacy). The Original Pharmacy Permit expired on March 1, 2004; however, there was a  
7 discontinuance of business filed on June 12, 2003.

8 **JURISDICTION**

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

12 5. Section 4300 of the Code provides, in pertinent part, that every license  
13 issued by the Board is subject to discipline, including suspension or revocation.

14 6. Section 4301 states:

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

19 (f) The commission of any act involving moral turpitude, dishonesty, fraud,  
20 deceit, or corruption, whether the act is committed in the course of relations as a licensee or  
21 otherwise, and whether the act is a felony or misdemeanor or not.

22 (j) The violation of any of the statutes of this state or of the United States  
23 regulating controlled substances and dangerous drugs.

24 (l) The conviction of a crime substantially related to the qualifications, functions,  
25 and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
26 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
27 substances or of a violation of the statutes of this state regulating controlled substances or  
28 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the

1 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
2 The board may inquire into the circumstances surrounding the commission of the crime, in order  
3 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
4 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
5 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty  
6 or a conviction following a plea of nolo contendere is deemed to be a conviction within the  
7 meaning of this provision. The board may take action when the time for appeal has elapsed, or  
8 the judgment of conviction has been affirmed on appeal or when an order granting probation is  
9 made suspending the imposition of sentence, irrespective of a subsequent order under Section  
10 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a  
11 plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information,  
12 or indictment.

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

17           "(p) Actions or conduct that would have warranted denial of a license.

18           7.       Section 4022 states:

19           "'Dangerous drug' or 'dangerous device' means any drug or device unsafe for  
20 self-use, except veterinary drugs that are labeled as such, and includes the following:

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

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

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

1           8.       Section 4059 of the Code states, in pertinent part, that a person may not  
2 furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist,  
3 optometrist, or veterinarian. A person may not furnish any dangerous device, except upon the  
4 prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.

5           9.       Section 4060 of the Code states:

6           "No person shall possess any controlled substance, except that furnished to a  
7 person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished  
8 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse  
9 practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1. This  
10 section shall not apply to the possession of any controlled substance by a manufacturer,  
11 wholesaler, pharmacy, physician, podiatrist, dentist, veterinarian, certified nurse-midwife, nurse  
12 practitioner, or physician assistant, when in stock in containers correctly labeled with the name  
13 and address of the supplier or producer.

14           "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner,  
15 or a physician assistant to order his or her own stock of dangerous drugs and devices."

16           10.      Section 4076 of the Code states, in pertinent part, that:

17           "(a) A pharmacist shall not dispense any prescription except in a container that  
18 meets the requirements of state and federal law and is correctly labeled with all of the following:

19           (1) Except where the prescriber or the certified nurse-midwife, or the physician  
20 assistant who functions pursuant to Section 3502.1 orders otherwise, either the manufacturer's  
21 trade name of the drug or the generic name and the name of the manufacturer. Commonly used  
22 abbreviations may be used. Preparations containing two or more active ingredients may be  
23 identified by the manufacturer' trade name or the commonly used name or the principal active  
24 ingredients.

25           (2) The directions for the use of the drug.

26           (3) The name of the patient or patients.

27           (4) The name of the prescriber and, if applicable, the certified nurse-midwife who  
28 functions pursuant to a standardized procedure or protocol described in Section 2746.51, the

1 nurse practitioner who functions pursuant to a standardized procedure described in Section  
2 2836.1, or protocol, or the physician assistant who functions pursuant to Section 3502.1.

3 (5) The date of issue.

4 (6) The name and address of the pharmacy, and prescription number or other  
5 means of identifying the prescription.

6 (7) The strength of the drug or drugs dispensed.

7 (8) The quantity of the drug or drugs dispensed.

8 (9) The expiration date of the effectiveness of the drug dispensed.

9 (10) The condition for which the drug was prescribed if requested by the patient  
10 and the condition is indicated on the prescription.

11 11. Section 4081 of the Code states:

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

22 "(b) The owner, officer, and partner of any pharmacy, wholesaler, or veterinary  
23 food-animal drug retailer shall be jointly responsible, with the pharmacist-in-charge or exemptee,  
24 for maintaining the records and inventory described in this section."

25 12. Section 4105, subdivision (a), of the Code states that all records or other  
26 documentation of the acquisition and disposition of dangerous drugs and dangerous devices by  
27 any entity licensed by the Board shall be retained on the licensed premises in a readily retrievable  
28 form.

1           13.     Section 4332 of the Code provides, in pertinent part:

2           "Any person who fails, neglects, or refuses to maintain the records required by  
3 Section 4081 or who, when called upon by an authorized officer or a member of the Board, fails,  
4 neglects, or refuses to produce or provide the records within a reasonable time, or who willfully  
5 produces or furnishes records that are false, is guilty of a misdemeanor.

6           14.     Section 4113, subdivision (b), of the Code states:

7           "The pharmacist-in-charge shall be responsible for a pharmacy's compliance with  
8 all state and federal laws and regulations pertaining to the practice of pharmacy."

9           15.     California Code of Regulations, title 16, section 1770, states:

10          "For the purpose of denial, suspension, or revocation of a personal or facility  
11 license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions  
12 Code, a crime or act shall be considered substantially related to the qualifications, functions or  
13 duties of a licensee or registrant if to a substantial degree it evidences present or potential  
14 unfitness of a licensee or registrant to perform the functions authorized by his license or  
15 registration in a manner consistent with the public health, safety, or welfare."

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

17          "California Code of Regulations, title 16, section 1718, states:

18          "Current Inventory" as used in Sections 4081 and 4332 of the Business and  
19 Professions Code shall be considered to include complete accountability for all dangerous drugs  
20 handled by every licensee enumerated in Sections 4081 and 4332.

21          17.     Section 11170 of the Health and Safety Code provides: "no person shall  
22 prescribe, administer, or furnish a controlled substance for himself."

23          18.     Health and Safety Code section 11173, subdivision (a), states, in pertinent  
24 part: "no person shall obtain or attempt to obtain controlled substances, or procure or attempt to  
25 procure the administration of or prescription for controlled substances, (1) by fraud, deceit,  
26 misrepresentation, or subterfuge; or (2) by the concealment of a material fact."

27        ///

28        ///

1           19.     Section 490 of the Code states:

2           "A board may suspend or revoke a license on the ground that the licensee has been  
3 convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties  
4 of the business or profession for which the license was issued. A conviction within the meaning  
5 of this section means a plea or verdict of guilty or a conviction following a plea of nolo  
6 contendere. Any action which a board is permitted to take following the establishment of a  
7 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has  
8 been affirmed on appeal, or when an order granting probation is made suspending the imposition  
9 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the  
10 Penal Code."

11           20.     Business and Professions Code section 118, subdivision (b) states:

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

19           21.     Section 125.3, subdivision (a), states, in pertinent part:

20           "Except as otherwise provided by law, in any order issued in resolution of a  
21 disciplinary proceeding before any board within the department . . . the board may request the  
22 administrative law judge to direct a licentiate found to have committed a violation or violations  
23 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
24 enforcement of the case."

25           22.     CONTROLLED SUBSTANCES

26           A.     "Hydrocodone/Acetaminophen", a generic drug for Vicodin, Vicodin ES,  
27 Lortab, Norco, Lorcet and Darvocet, is a Schedule III controlled substance as designated by  
28 Health and Safety Code section 11056(e)(4) and classified as a dangerous drugs pursuant to

1 Business and Professions Code section 4022(c).

2 B. "Cocaine," is a Schedule I controlled substance as designated by Health  
3 and Safety Code section 11054(f)(1).

4 **FIRST CAUSE FOR DISCIPLINE**

5 *(Conviction of a Substantially Related Crime)*

6 23. Respondent Magruder is subject to disciplinary action under sections 4300  
7 and 4301, subdivisions (l) and (p) on the grounds of unprofessional conduct in conjunction with  
8 section 490 of the Code as defined in California Code of Regulations, title 16, section 1770 in  
9 that Respondent Magruder was convicted of a crime substantially related to the qualifications,  
10 functions, or duties of a pharmacist. The circumstances are as follows:

11 a. On or about October 9, 2003, Respondent Magruder was convicted on a  
12 plea of nolo contendere to one count of violating Health and Safety Code section 11378, a felony,  
13 (possession of controlled substances for sale), in the Superior Court of California, County of San  
14 Bernardino, Case No. FWV 028143, entitled *The People of the State of California v. Michael Lee*  
15 *Magruder*.

16 b. The circumstances surrounding the conviction are that on or about April  
17 29, 2003, Respondent Magruder was arrested for being in possession of controlled substances.  
18 Respondent Magruder was stopped by the Pomona Police for a possible narcotic violation.  
19 While Respondent Magruder was attempting to show his driver's license and registration, the  
20 police officer observed a small white paper bag in Respondent Magruder's vehicle. A further  
21 search of the vehicle revealed that Respondent Magruder was in possession of cocaine and the  
22 controlled substance, hydrocodone.

23 **SECOND CAUSE FOR DISCIPLINE**

24 *(Possession of Controlled Substances)*

25 24. Respondent Magruder is subject to disciplinary action under sections 4300  
26 and 4301(f), (j), (o) and (p) of the Code on the grounds of unprofessional conduct for violating  
27 Health and Safety Code sections 11170 and 11173, subdivision (a) in that Respondent Magruder  
28 obtained controlled substances by fraud, deceit, or misrepresentation, as more fully set forth in

1 paragraph 22, above.

2 **THIRD CAUSE FOR DISCIPLINE**

3 *(Failure to Maintain Current Inventory)*

4 25. Respondents Magruder and Pharmacy are subject to disciplinary action  
5 under section 4300 and 4301, subdivisions (j), (o) and (p) of the Code on the grounds of  
6 unprofessional conduct for violating section 4081, subdivision (a), in conjunction with California  
7 Code of Regulations, title 16, section 1718. The circumstances are as follows:

8 a. On or about April 30, 2003, an inspector for the Board conducted a drug  
9 audit for all hydrocodone-containing products for the period between May 5, 2001 to April 30,  
10 2003. The inventory for hydrocodone containing drugs revealed that as of April 30, 2003, there  
11 was significantly less medication on hand, as follows:

12

13 <u>Drug</u>	<u>Initial</u> <u>Amount</u>	<u>Amount</u> <u>Ordered</u>	<u>Amount</u> <u>Dispensed</u>	<u>Amount</u> <u>to be</u> <u>Accounted</u>	<u>Stock</u> <u>on hand</u>	<u>Shortage</u>
14 Vicodin	328	67,700	45,186	22,842	504	22,338
Vicodin-Es	433	49,100	17,801	31,732	300	31,432
15 Lortab-10	610	47,400	340	47,670	550	47,120
Norco	1,059	103,900	23,121	81,838	1,680	80,158
16 Lorcet	543	86,700	2,320	84,923	610	84,313

17 **FOURTH CAUSE FOR DISCIPLINE**

18 *(Failure to Produce Records)*

19 26. Respondents Magruder and Pharmacy are subject to disciplinary action  
20 under sections 4300 and 4301, subdivision (o) of the Code on the grounds of unprofessional  
21 conduct for violating California Code of Regulations, title 16, sections 1715, subdivision (d) and  
22 1718, in conjunction with Code of Federal Regulations, title 21, section 1304.11, subdivision (e),  
23 in that they failed to maintain, produce and provide records as requested by the Board or its  
24 representative, as follows:

25 a. On or about March 27, 2003, an inspector for the Board performed a  
26 thorough routine inspection of Respondent Pharmacy. The inspection revealed that many  
27 documents, such as Pharmacy Self Assessment and DEA inventory were missing from  
28 Respondent Pharmacy. Consequently the inspector called Respondent Magruder and he



1 admitted to the inspector that he had taken the records home.

2 **OTHER MATTERS**

3 27. Business and Professions Code section 4307(a) provides, in pertinent part,  
4 that any person whose license has been revoked or is under suspension, or who has failed to  
5 renew his or her license while it was under suspension, or who has been a manager,  
6 administrator, owner, member, officer, director, associate, or partner and while acting as the  
7 manager, administrator, owner, member, officer, director, associate, or partner had knowledge of  
8 or knowingly participated in any conduct for which the license was denied, revoked, suspended,  
9 or placed on probation, shall be prohibited from serving as a manager, administrator, owner,  
10 member, officer, director, associate, or partner of a license.

11  
12 **PRAYER**

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

15 A. Revoking or suspending Original Pharmacy License No. RPH 27148,  
16 issued to Michael Lee Magruder;

17 B. Revoking or suspending Original Pharmacy Permit No. PHY 31096,  
18 issued to Thirteenth Avenue Medical Pharmacy, Inc., doing business as Thirteenth Avenue  
19 Medical Pharmacy, Michael L. Magruder, President-Partner;

20 C. Ordering Michael Lee Magruder and Thirteenth Avenue Medical  
21 Pharmacy, Inc., to pay the Board of Pharmacy the reasonable costs of the investigation and  
22 enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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D. Taking such other and further action as deemed necessary and proper.

DATED: 9/9/04

*P. F. Harris*  
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PATRICIA F. HARRIS  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California

Complainant