

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

In the Matter of the Accusation Against:

Case No. 2955

SILVER SALES, INC., ROBERT SILVER
5115 Douglas Fir Rd. #E
Calabasas, CA 91302

Wholesale Permit No. WLS 2405
Original Exemption Certificate No. EXC
11692

Respondents.

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 on April 11, 2007.

It is so ORDERED March 12, 2007.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



WILLIAM POWERS
Board President

1 BILL LOCKYER, Attorney General
of the State of California
2 MARC D. GREENBAUM, State Bar No. 138213
Supervising Deputy Attorney General
3 JAMI L. CANTORE, State Bar No. 165410
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
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Telephone: (213) 897-2569
6 Facsimile: (213) 897-2804

7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 2955

12 SILVER SALES, INC.; ROBERT SILVER
5115 Douglas Fir Rd. #E
13 Calabasas, CA 91302

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 Wholesale Permit No. WLS 2405
Original Exemption Certificate No. EXC
15 11692

16 Respondents.

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties in
19 this proceeding that the following matters are true:

20 PARTIES

21 1. Virginia K. Herold (Complainant) is the Interim Executive Officer of
22 the Board of Pharmacy. She brought this action solely in her official capacity and is
23 represented in this matter by Bill Lockyer, Attorney General of the State of California, by
24 Jami L. Cantore, Deputy Attorney General.

25 2. Silver Sales, Inc. and Robert Silver (Respondents) are represented in
26 this proceeding by attorney Robert W. Snyder, Esq., whose address is 15375 Barranca
27 Parkway, Suite B-105, Irvine, CA 92618.

28 ///

1 the same force and effect as the originals.

2 14. In consideration of the foregoing admissions and stipulations, the
3 parties agree that the Board may, without further notice or formal proceeding, issue and enter
4 the following Order:

5 **ORDER**

6 IT IS HEREBY ORDERED that Wholesale Permit No. WLS 2405 and
7 Original Exemption Certificate No. EXC 11692 issued to Respondents Silver Sales, Inc. and
8 Robert Silver are surrendered and accepted by the Board of Pharmacy.

9 15. The surrender of Respondents' Wholesale Permit and Original
10 Exemption Certificate and the acceptance of the surrendered licenses by the Board shall
11 constitute the imposition of discipline against Respondents. This stipulation constitutes a
12 record of the discipline and shall become a part of Respondents' license history with the
13 Board.

14 16. Respondents shall lose all rights and privileges as Exemptee-in-Charge
15 in California as of the effective date of the Board's Decision and Order.

16 17. Respondents shall cause to be delivered to the Board both the
17 Wholesale Permit and the Original Exemption Certificate wall and pocket license certificates
18 on or before the effective date of the Decision and Order.

19 18. Respondents understand and agree that if they ever apply for licensure
20 or petition for reinstatement in the State of California, the Board shall treat it as a new
21 application for licensure. Respondents must comply with all the laws, regulations and
22 procedures for licensure in effect at the time the application or petition is filed, and all of the
23 charges and allegations contained in Accusation No. 2955 shall be deemed to be true, correct
24 and admitted by Respondents when the Board determines whether to grant or deny the
25 application or petition.

26 19. Should Respondents ever apply or reapply for a new license or
27 certification, or petition for reinstatement of a license, by any other health care licensing
28 agency in the State of California, all of the charges and allegations contained in Accusation

1 No. 2955 shall be deemed to be true, correct, and admitted by Respondents for the purpose of
2 any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

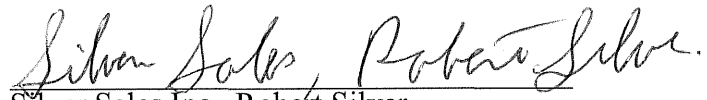
3 20. Respondents shall pay the Board its costs of investigation and
4 enforcement in the amount of \$10,000.00 prior to the issuance of a new or reinstated license.

5 21. Respondents may not apply or reapply for any license, permit, or
6 registration from the Board for three years from the effective date of this Decision.

7 ACCEPTANCE

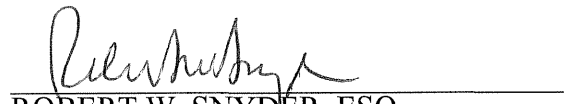
8 I have carefully read the above Stipulated Surrender of License and Order and
9 have fully discussed it with my attorney, Robert W. Snyder, Esq. I understand the stipulation
10 and the effect it will have on my Wholesale Permit and Original Exemption Certificate. I
11 enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and
12 intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

13 DATED: 11/17/06

14
15 
16 Silver Sales Inc., Robert Silver
17 Respondents

18 I have read and fully discussed with Respondents Silver Sales, Inc. and Robert
19 Silver the terms and conditions and other matters contained in this Stipulated Surrender of
20 License and Order. I approve of its form and content.

21 DATED: November 17, 2006

22
23 
24 ROBERT W. SNYDER, ESQ.
25 Attorney for Respondents

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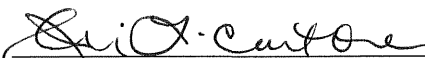
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: 11/27/04

BILL LOCKYER, Attorney General
of the State of California

MARC D. GREENBAUM
Supervising Deputy Attorney General



JAMI L. CANTORE
Deputy Attorney General

Attorneys for Complainant

Exhibit A
Accusation No. 2955

1 BILL LOCKYER, Attorney General
of the State of California
2 JAMI L. CANTORE, State Bar No. 165410
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
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7 **BEFORE THE**
8 **BOARD OF PHARMACY**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2955

12 SILVER SALES, INC.
5115 Douglas Fir Rd. #E
13 Calabasas, CA 91302

ACCUSATION

14 Wholesale Permit No. WLS 2405

and

15 ROBERT SILVER
3277 Sawtooth Ct.
16 Westlake Village, CA 91362

17 Original Exemption Certificate No. EXC 11692

18 Respondents.

19
20 Complainant alleges:

21 PARTIES

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

25 2. On or about March 9, 1993, the Board of Pharmacy issued Wholesale
26 Permit No. WLS 2405 to Silver Sales Inc. (Respondent Sales). The Wholesale Permit was in full
27 force and effect at all times relevant to the charges brought herein and will expire on March 1,
28 2007, unless renewed. Robert Silver, Original Exemption Certificate No. EXC 11692, has been

1 the President and Exemptee-in-Charge of Silver Sales, Inc. since March 9, 1993.

2 3. On or about March 9, 1993, the Board of Pharmacy issued original
3 Exemption Certificate No. EXC 11692 to Robert Silver (Respondent Silver) to act as an
4 Exemptee in California. The Exemption Certificate Registration was in full force and effect at
5 all times relevant to the charges brought herein and will expire on March 1, 2007, unless
6 renewed.

7 JURISDICTION

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

11 5. Section 118, subdivision (b), of the Code 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 6. Section 4301 of the Code states:

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

24
25 "(f) The commission of any act involving moral turpitude, dishonesty, fraud,
26 deceit, or corruption, whether the act is committed in the course of relations as a licensee or
27 otherwise, and whether the act is a felony or misdemeanor or not.

28 "(g) Knowingly making or signing any certificate or other document that falsely

1 represents the existence or nonexistence of a state of facts.

2
3 "(j) The violation of any of the statutes of this state or of the United States
4 regulating controlled substances and dangerous drugs.

5
6 "(l) The conviction of a crime substantially related to the qualifications, functions,
7 and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
8 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
9 substances or of a violation of the statutes of this state regulating controlled substances or
10 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
11 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
12 The board may inquire into the circumstances surrounding the commission of the crime, in order
13 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
14 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
15 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty
16 or a conviction following a plea of nolo contendere is deemed to be a conviction within the
17 meaning of this provision. The board may take action when the time for appeal has elapsed, or
18 the judgment of conviction has been affirmed on appeal or when an order granting probation is
19 made suspending the imposition of sentence, irrespective of a subsequent order under Section
20 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a
21 plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information,
22 or indictment.

23
24 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or
25 abetting the violation of or conspiring to violate any provision or term of this chapter or of the
26 applicable federal and state laws and regulations governing pharmacy, including regulations
27 established by the board.

1 "(q) Engaging in any conduct that subverts or attempts to subvert an investigation
2 of the board."

3 7. Section 490 of the Code states:

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

13 8. Section 4059.5 of the Code, states:

14 "(a) Except as otherwise provided in this chapter, dangerous drugs or dangerous
15 devices may only be ordered by an entity licensed by the board and shall be delivered to the
16 licensed premises and signed for and received by a pharmacist. Where a licensee is permitted to
17 operate through a designated representative, the designated representative may sign for and
18 receive the delivery.

19

20 "(d) Notwithstanding any other provision of law, a dangerous drug or dangerous
21 device may be ordered by and provided to a manufacturer, physician, dentist, podiatrist,
22 optometrist, veterinarian, naturopathic doctor pursuant to Section 3640.7, or laboratory, or a
23 physical therapist acting within the scope of his or her license. A person or entity receiving
24 delivery of a dangerous drug or dangerous device, or a duly authorized representative of the
25 person or entity, shall sign for the receipt of the dangerous drug or dangerous device.

26 "(e) A dangerous drug or dangerous device shall not be transferred, sold, or
27 delivered to a person outside this state, whether foreign or domestic, unless the transferor, seller,
28 or deliverer does so in compliance with the laws of this state and of the United States and of the

1 state or country to which the dangerous drugs or dangerous devices are to be transferred, sold, or
2 delivered. Compliance with the laws of this state and the United States and of the state or
3 country to which the dangerous drugs or dangerous devices are to be delivered shall include, but
4 not be limited to, determining that the recipient of the dangerous drugs or dangerous devices is
5 authorized by law to receive the dangerous drugs or dangerous devices."

6 9. Section 4061, subdivision (a), of the Code states:

7 "(a) No manufacturer's sales representative shall distribute any dangerous drug or
8 dangerous device as a complimentary sample without the written request of a physician, dentist,
9 podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.
10 However, a certified nurse-midwife who functions pursuant to a standardized procedure or
11 protocol described in Section 2746.51, a nurse practitioner who functions pursuant to a
12 standardized procedure described in Section 2836.1, or protocol, a physician assistant who
13 functions pursuant to a protocol described in Section 3502.1, or a naturopathic doctor who
14 functions pursuant to a standardized procedure or protocol described in Section 3640.5, may sign
15 for the request and receipt of complimentary samples of a dangerous drug or dangerous device
16 that has been identified in the standardized procedure, protocol, or practice agreement.
17 Standardized procedures, protocols, and practice agreements shall include specific approval by a
18 physician. A review process, consistent with the requirements of Section 2725, 3502.1, or
19 3640.5, of the complimentary samples requested and received by a nurse practitioner, certified
20 nurse-midwife, physician assistant, or naturopathic doctor, shall be defined within the
21 standardized procedure, protocol, or practice agreement."

22 10. Section 4081 of the Code states:

23 "(a) All records of manufacture and of sale, acquisition, or disposition of
24 dangerous drugs or dangerous devices shall be at all times during business hours open to
25 inspection by authorized officers of the law, and shall be preserved for at least three years from
26 the date of making. A current inventory shall be kept by every manufacturer, wholesaler,
27 pharmacy, veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian,
28 laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked

1 certificate, license, permit, registration, or exemption under Division 2 (commencing with
2 Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000)
3 of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or
4 dangerous devices.

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

8 "(c) The pharmacist-in-charge or exemptee shall not be criminally responsible for
9 acts of the owner, officer, partner, or employee that violate this section and of which the
10 pharmacist-in-charge or exemptee had no knowledge, or in which he or she did not knowingly
11 participate."

12 11. Section 4165 of the Code states:

13 "A wholesaler licensed by the board who sells or transfers any dangerous drug or
14 dangerous device into this state or who receives, by sale or otherwise, any dangerous drug or
15 dangerous device from any person in this state shall, on request, furnish an authorized officer of
16 the law with all records or other documentation of that sale or transfer."

17 12. Section 4201 of the Code states:

18 "(f) Notwithstanding any other provision of law, the pharmacy license shall
19 authorize the holder to conduct a pharmacy. The license shall be renewed annually and shall not
20 be transferable.

21 "(g) Notwithstanding any other provision of law, the wholesale license shall
22 authorize the holder to wholesale dangerous drugs and dangerous devices. The license shall be
23 renewed annually and shall not be transferable.

24 "(h) Notwithstanding any other provision of law, the veterinary food-animal drug
25 retailer license shall authorize the holder thereof to conduct a veterinary food-animal drug retailer
26 and to sell and dispense veterinary food-animal drugs as defined in Section 4042.

27 "(i) For licenses referred to in subdivisions (f), (g), and (h), any change in the
28 proposed beneficial ownership interest shall be reported to the board within 30 days thereafter

1 upon a form to be furnished by the board."

2 13. Section 4022 of the Code states:

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

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

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

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

13 14. California Code of Regulations, title 16, section 1770, states:

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

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

24 FIRST CAUSE FOR DISCIPLINE

25 (Unprofessional Conduct: Conviction of Substantially Related Crime)

26 16. Respondent Sales and Silver are subject to disciplinary action under
27 sections 4300 and 4301, subdivision (1), of the Code on the grounds of unprofessional conduct in
28 conjunction with section 490 as defined in California Code of Regulations title 16 section 1770

1 in that Respondent Silver was convicted of a crime substantially related to the qualifications,
2 functions, or duties of an exemptee. The circumstances are as follows:

3 a. On or about May 17, 1999, Respondent was convicted on a plea of guilty
4 for one count of violating Title 18 United States Code section 287, a felony (false claim to a
5 federal agency), in the United States District Court, Central District, Case No. 99-CR-295-WDK,
6 entitled *United States of America v. Robert Silver*.

7 b. The circumstances surrounding the conviction are that on or about
8 February 17, 1994, Respondent presented fraudulent invoices to the U. S. Department of
9 Defense. The invoices were false in that the products invoiced were not the products provided to
10 the U. S. Department of Defense.

11 SECOND CAUSE FOR DISCIPLINE

12 (Dishonesty, Fraud, Deceit, or Corruption)

13 17. Respondents Sales and Silver are subject to disciplinary action under
14 sections 4300 and 4301, subdivisions (f) and (g), of the Code in that Respondents committed acts
15 of dishonesty, fraud, deceit, or corruption in the following respects:

16 a. On or about February 17, 1994, Respondent Silver fraudulently presented
17 to the U. S. Department of Defense invoices in the amounts of \$747.50 and \$234, which
18 represented that Respondent had provided the agency with the product Hercules, 20-205 Clobber,
19 Acid Cleaning Compound. In fact, Respondent provided the agency with the product Venus
20 Labs Tempered Drain Opener, and not the acid cleaning compound.

21 THIRD CAUSE FOR DISCIPLINE

22 (Failed to Maintain and Provide Records of Acquisition and Disposition)

23 18. Respondents Sales and Silvers are subject to disciplinary action under
24 sections 4300 and 4301, subdivisions (j), (o) and (q), of the Code on the grounds of
25 unprofessional conduct for violating sections 4081 and 4165 in that they failed to maintain and
26 provide records of acquisition and disposition for Respondent Sales. The circumstances are as
27 follows:

28 ///

1 a. On or about March 7, 2005 and April 14, 2005, during inspections of
2 Respondent Sales conducted by Board inspectors, Respondent Silver was requested to submit
3 copies of all invoices for purchases and sales of all dangerous drugs sold to and purchased by
4 Respondent Sales from March 1, 2002 to March 7, 2005. Respondent Silver stated that no sales
5 and/or purchases of dangerous drugs were made during that time period.

6 b. On or about March 17, 2005, at the request of Board inspectors, H. D.
7 Smith Wholesale Drug Company provided the Board with a printed report for all items sold to
8 Respondents for the time period of March 1, 2002 to March 10, 2005. The total purchases made
9 by Respondent from H. D. Smith Wholesale Drug Company for that time period was \$17,079.50.

10 c. From on or about March 1, 2002 to on or about March 10, 2005,
11 Respondents purchased dangerous drugs from H. D. Smith Wholesale Drug Company.

12 d. On or about April 14, 2005, during an inspection conducted by Board
13 inspectors, Respondent Silver stated that all dangerous drug acquisition records had been
14 destroyed in a computer crash. Respondent stated he did not maintain hard copies of the records.

15 e. On or about March 17, 2005, a Board inspector performed a review of all
16 invoices received from H. D. Smith Wholesale Drug Company. The invoices established that
17 Respondents purchased 187 bottles (500 tablets each) of Carisoprodol, the brand name for Soma,
18 between the period of March 1, 2002 to March 10, 2005. Other drugs purchased by Respondents
19 during that time period at higher volumes included 2,300 tablets of Acyclovir, 1,500 tablets of
20 Captopril 50mg., 2,800 tablets of Estradiol 1mg., and 1,020 tablets of Zocor 40 mg.

21 FOURTH CAUSE FOR DISCIPLINE

22 (Unprofessional Conduct: Dangerous Drugs to an Unlicensed Entity)

23 19. Respondents Sales and Silver are subject to disciplinary action under
24 sections 4300 and 4301, subdivisions (j) and (o), of the Code on the grounds of unprofessional
25 conduct for violating section 4059.5 in that Respondents transferred dangerous drugs to
26 businesses located in foreign countries and not licensed in the State of California. The
27 circumstances are as follows:

28 ///

1 a. From on or about May 31, 2002 to on or about March 1, 2005,
2 Respondents transferred dangerous drugs to businesses located in foreign countries and not
3 licensed by the Board. Respondents did not maintain proof and/or records establishing that the
4 recipients were authorized by law to receive the dangerous drugs. Respondents shipped
5 dangerous drugs to the following businesses:

<u>Business</u>	<u>Country</u>
Xian Pharmaceutical Co. Ltd.	China
Yangtze River Pharmacy Ltd.	China
Mekim Pharmacy Ltd.	Hong Kong
Yunnan Tigra Healthcare	China
Vida Labs Ltd.	China
HS International	Hong Kong
Samil Pharmacy & Trading Co. Lt	Korea
Hebei Jiheng Pharmacy, Ltd.	China
Gain World Pharmacy Ltd.	China
Dalian Merro Biology Ltd.	China
Beijin Wantai Biological Ltd.	China

13
14 FIFTH CAUSE FOR DISCIPLINE

15 (Unprofessional Conduct: Failed to Maintain Proof of Delivery of Dangerous Drugs)

16 20. Respondents Sales and Silver are subject to disciplinary action under
17 sections 4300 and 4301, subdivisions (j) and (o), of the Code on the grounds of unprofessional
18 conduct for violating section 4059.5, subdivisions (a) and (d), in that Respondents failed to
19 maintain proof of delivery of dangerous drugs. The circumstances are as follows:

20 a. On or about June 14, 2005, Respondent Silver addressed a letter to the
21 Board stating that the businesses which received the dangerous drugs had provided Respondent
22 with prepaid shipping documents and that all of said documents were in the possession of the
23 respective businesses. On or about September 12, 2005, Respondent Silver stated that he did not
24 have any hard copies to establish the transfer of dangerous drugs within the United States.
25 Respondent Silver stated that he scanned everything into his computer, that his computer had
26 crashed and that he did not keep any hard copies of the records.

27 ///

28 ///

1 SIXTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct: Failed to Maintain Current Records and Inventory)

3 21. Respondents Sales and Silver are subject to disciplinary action under
4 sections 4300 and 4301, subdivisions (j) and (o), of the Code on the grounds of unprofessional
5 conduct for violating section 4081 in conjunction with California Code of Regulations title 16
6 section 1718 in that Respondents failed to maintain a complete and accurate record of each
7 dangerous drug received, delivered, sold, or otherwise disposed of. The circumstances are as
8 follows:

9 a. On or about March 10, 2005, a Board inspector conducted a comparison
10 between the amount of dangerous drugs purchased by Respondents and the amount distributed.
11 The comparison revealed the following shortage of dangerous drugs:

<u>Drug</u>	<u>Quantity</u>
Atenolol 50mg.	100 tablets
Captopril 50 mg.	600 tablets
Carisoprodol 350mg.	14,500 tablets
Hydrocortisone Cream 2.5%	150 grams
Ibuprofen 400 mg.	500 tablets
Ibuprofen 800 mg.	1,500 tablets
Lisinopril 10mg.	100 tablets
Methylprednisolone 4mg.	42 tablets
Monopril 20mg.	360 tablets
Warfarin 5mg.	400 tablets
Wellbutrin SR 100mg.	120 tablets

12 SEVENTH CAUSE FOR DISCIPLINE

13 (Unprofessional Conduct: Illegal Distribution of Dangerous Drugs)

14 22. Respondents Sales and Silver are subject to disciplinary action under
15 sections 4300 and 4301, subdivisions (j) and (o), of the Code on the grounds of unprofessional
16 conduct for violating section 4061 in that Respondents transferred dangerous drugs as samples to
17 foreign businesses not licensed with the Board, as more fully set forth above in paragraph 19 and
18 incorporated herein by reference.

19 EIGHTH CAUSE FOR DISCIPLINE

20 (Unprofessional Conduct: Failed to Maintain Record of Disposition)

21 23. Respondents Sales and Silver are subject to disciplinary action under

1 sections 4300 and 4301, subdivisions (j), (o) and (q), of the Code on the grounds of
2 unprofessional conduct for violating section 4081 in that they failed to maintain records of
3 disposition for two bottles of Ibuprofen 800mg. The circumstances are as follows:

4 a. On or about March 17, 2006, during an inspection of Respondent Sales,
5 the Board inspectors observed two partially filled bottles of Ibuprofen 800mg. tablets in the
6 restroom. The inspectors requested Respondent Silver to properly dispose of the two bottles and
7 to provide them with documentation of the disposition. On or about April 14, 2006, during
8 another inspection, Respondent was unable to provide the inspectors with documentation on the
9 disposition of the two bottles of Ibuprofen 800mg. Respondent Silver claimed that the bottles
10 were properly disposed of but did not provide any documentation confirming the disposal to the
11 inspectors.

12 NINTH CAUSE FOR DISCIPLINE

13 (Unprofessional Conduct: Failure to Notify Change of Ownership)

14 24. Respondents Sales and Silver are subject to disciplinary action under
15 sections 4300 and 4301, subdivision (j), of the Code on the grounds of unprofessional conduct
16 for violating 4201, subdivision (i), in that Respondents failed to notify the Board of a change of
17 ownership. The circumstances are as follows:

18 a. On or about December 1, 1999, the Secretary of State databases listed
19 Silver Sales, Inc. corporation number C1839668 with a forfeiture status, listing only Judie Silver
20 as the chief executive officer. Respondents' original Application for Wholesalers Permit dated
21 July 19, 1991, listed only Respondent Silver as the president. Respondents' Change of Permit
22 Request/Change of Address dated March 7, 2005, listed only Respondent Silver as the president.
23 Judie Silver was not listed or identified on either application filed with the Board.

24 AGGRAVATING CIRCUMSTANCES

25 25. To determine the degree of discipline to be imposed, if any, against
26 Respondents Sales and Silver, Complainant alleges that on or about December 9, 1991,
27 Respondent Silver was convicted on a plea of guilty for one (1) count of violating Title 41 USCS
28 sections 53-54, a felony (paying illegal kickback), and one (1) count of violating Title 26 USCS

1 section 7206(1), a felony (subscribing to false income tax return), in the United States District
2 Court, Central District of California, Case No. 91-CR-773-ALL, entitled *United States of*
3 *America v. Robert M., Silver.*

4 PRAYER

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

7 1. Revoking or suspending Wholesale Permit No. WLS 2405 issued to Silver
8 Sales Inc.;

9 2. Revoking or suspending Original Exemption Certificate No. EXC 11692
10 issued to Robert Silver Robert Silver.

11 3. Ordering Silver Sales Inc. and Robert Silver to pay the Board of Pharmacy
12 the reasonable costs of the investigation and enforcement of this case pursuant to Business and
13 Professions Code section 125.3;

14 4. Taking such other and further action as deemed necessary and proper.

15 DATED: 6/29/06

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PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant