

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

In the Matter of the Accusation Against:

**DONALD WEEKS
833 S Main Avenue, Apt. 137
Fallbrook, CA 92028-3348**

Pharmacist License No. RPH 38871

Respondent.

Case No. 3167

OAH No. 2010020553

DECISION AND ORDER

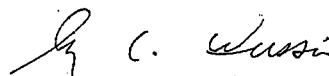
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on April 23, 2012.

It is so ORDERED on March 23, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY C. WEISSER
Board President

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Attorney General of California
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8
9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

12 **DONALD WEEKS, RPH**
13 **833 S Main Avenue, Apt. 137**
14 **Fallbrook, CA 92028-3348**

15 **Registered Pharmacist License No. 38871**

16 Respondent.

Case No. 3167

OAH No. 2010020553

STIPULATED SETTLEMENT
AND DISCIPLINARY ORDER

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

19 PARTIES

20 1. Complainant Virginia Herold is the Executive Officer of the Board of Pharmacy
21 (Board). She brought this action solely in her official capacity and is represented in this matter by
22 Kamala D. Harris, Attorney General of the State of California, by G. Michael German, Deputy
23 Attorney General.

24 2. Respondent Donald Weeks, RPH is represented in this proceeding by attorney James
25 E. McElroy, Esq., whose address is: 3790 Via De La Valle, Suite 313 Del Mar, CA 92014

26 3. On August 23, 1984, the Board issued Registered Pharmacist License No. 38871 to
27 Respondent. The license was in full force and effect at all times relevant to the charges brought
28 in Accusation No. 3167 and will expire on February 29, 2012, unless renewed.

1 **1. Obey All Laws**

2 Respondent shall obey all state and federal laws and regulations.

3 Respondent shall report any of the following occurrences to the board, in writing, within 72
4 hours of such occurrence:

- 5 • an arrest or issuance of a criminal complaint for violation of any provision of the
6 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
7 substances laws
- 8 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
9 criminal complaint, information or indictment
- 10 • a conviction of any crime
- 11 • discipline, citation, or other administrative action filed by any state or federal agency
12 which involves Respondent's pharmacy license or which is related to the practice of
13 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
14 for any drug, device or controlled substance.

15 Failure to timely report such occurrence shall be considered a violation of probation.

16 **2. Report to the Board**

17 Respondent shall report to the Board quarterly, on a schedule as directed by the Board or its
18 designee. The report shall be made either in person or in writing, as directed. Among other
19 requirements, Respondent shall state in each report under penalty of perjury whether there has
20 been compliance with all the terms and conditions of probation. Failure to submit timely reports
21 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
22 in submission of reports as directed may be added to the total period of probation. Moreover, if
23 the final probation report is not made as directed, probation shall be automatically extended until
24 such time as the final report is made and accepted by the board.

25 **3. Interview with the Board**

26 Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews
27 with the Board or its designee, at such intervals and locations as are determined by the Board or
28 its designee. Failure to appear for any scheduled interview without prior notification to Board

1 staff, or failure to appear for two or more scheduled interviews with the board or its designee
2 during the period of probation, shall be considered a violation of probation.

3 **4. Cooperate with Board Staff**

4 Respondent shall cooperate with the Board's inspection program and with the Board's
5 monitoring and investigation of respondent's compliance with the terms and conditions of his
6 probation. Failure to cooperate shall be considered a violation of probation.

7 **5. Continuing Education**

8 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
9 pharmacist as directed by the Board or its designee.

10 **6. Notice to Employers**

11 During the period of probation, Respondent shall notify all present and prospective
12 employers of the decision in Accusation number 3167 and the terms, conditions and restrictions
13 imposed on respondent by the decision, as follows:

14 Within 30 days of the effective date of this decision, and within 15 days of Respondent's
15 undertaking any new employment, Respondent shall cause his direct supervisor, pharmacist-in-
16 charge (including each new pharmacist-in-charge employed during Respondent's tenure of
17 employment) and owner to report to the Board in writing acknowledging that the listed
18 individual(s) has/have read the decision in Accusation case number 3167, and terms and
19 conditions imposed thereby. It shall be Respondent's responsibility to ensure that his employer(s)
20 and/or supervisor(s) submit timely acknowledgment(s) to the Board.

21 If Respondent works for or is employed by or through a pharmacy employment service,
22 Respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
23 licensed by the board of the terms and conditions of the decision in Accusation case number 3167
24 in advance of the Respondent's commencing work at each licensed entity. A record of this
25 notification must be provided to the Board upon request.

26 Furthermore, within 30 days of the effective date of this decision, and within 15 days of
27 Respondent's undertaking any new employment by or through a pharmacy employment service,
28 Respondent shall cause his direct supervisor with the pharmacy employment service to report to

1 the Board in writing acknowledging that he has read the decision in Accusation case number 3167
2 and the terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure
3 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

4 Failure to timely notify present or prospective employer(s) or to cause that/those
5 employer(s) to submit timely acknowledgments to the Board shall be considered a violation of
6 probation.

7 "Employment" within the meaning of this provision shall include any full-time,
8 part-time, temporary, relief or pharmacy management service as a pharmacist or any
9 position for which a pharmacist license is a requirement or criterion for employment,
10 whether the respondent is an employee, independent contractor or volunteer.

11 **7. Reimbursement of Board Costs**

12 As a condition precedent to successful completion of probation, Respondent shall pay the
13 Board its costs of investigation and prosecution in the amount of \$14,000. Respondent shall
14 make said payment in full within one year of the effective date of the Decision & Order in a
15 payment plan to be approved by the Board.

16 There shall be no deviation from this schedule absent prior written approval by the Board or
17 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
18 probation.

19 The filing of bankruptcy by Respondent shall not relieve respondent of his responsibility to
20 reimburse the board its costs of investigation and prosecution.

21 **8. Probation Monitoring Costs**

22 Respondent shall pay any costs associated with probation monitoring as determined by the
23 Board each and every year of probation. Such costs shall be payable to the Board on a schedule
24 as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed
25 shall be considered a violation of probation.

1 **9. Status of License**

2 Respondent shall, at all times while on probation, maintain an active, current license with
3 the Board, including any period during which suspension or probation is tolled. Failure to
4 maintain an active, current license shall be considered a violation of probation.

5 If Respondent's license expires or is cancelled by operation of law or otherwise at any time
6 during the period of probation, including any extensions thereof due to tolling or otherwise, upon
7 renewal or reapplication Respondent's license shall be subject to all terms and conditions of this
8 probation not previously satisfied.

9 **10. License Surrender While on Probation/Suspension**

10 Following the effective date of this decision, should Respondent cease practice due to
11 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
12 Respondent may tender his license to the Board for surrender. The Board or its designee shall
13 have the discretion whether to grant the request for surrender or take any other action it deems
14 appropriate and reasonable. Upon formal acceptance of the surrender of the license, Respondent
15 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
16 record of discipline and shall become a part of the Respondent's license history with the board.

17 Upon acceptance of the surrender, Respondent shall relinquish his pocket and wall license
18 to the board within ten days of notification by the Board that the surrender is accepted.
19 Respondent may not reapply for any license from the board for three years from the effective date
20 of the surrender. Respondent shall meet all requirements applicable to the license sought as of the
21 date the application for that license is submitted to the Board, including any outstanding costs.

22 **11. Notification of a Change in Name, Residence Address, Mailing Address or**
23 **Employment**

24 Respondent shall notify the board in writing within ten days of any change of employment.
25 Said notification shall include the reasons for leaving, the address of the new employer, the name
26 of the supervisor and owner, and the work schedule if known. Respondent shall further notify the
27 Board in writing within ten days of a change in name, residence address, mailing address, or
28 phone number.

1 Failure to timely notify the Board of any change in employer(s), name(s), address(es), or
2 phone number(s) shall be considered a violation of probation.

3 **12. Tolling of Probation**

4 Except during periods of suspension, Respondent shall, at all times while on probation, be
5 employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any
6 month during which this minimum is not met shall toll the period of probation, i.e., the period of
7 probation shall be extended by one month for each month during which this minimum is not met.
8 During any such period of tolling of probation, Respondent must nonetheless comply with all
9 terms and conditions of probation.

10 Should Respondent, regardless of residency, for any reason (including vacation) cease
11 practicing as a pharmacist for a minimum of 40 hours per calendar month in California,
12 Respondent must notify the Board in writing within ten days of the cessation of practice, and
13 must further notify the Board in writing within ten days of the resumption of practice. Any
14 failure to provide such notification(s) shall be considered a violation of probation.

15 It is a violation of probation for Respondent's probation to remain tolled pursuant to the
16 provisions of this condition for a total period, counting consecutive and non-consecutive months,
17 exceeding 36 months.

18 "Cessation of practice" means any calendar month during which Respondent is
19 not practicing as a pharmacist for at least 40 hours, as defined by Business and
20 Professions Code section 4000 et seq. "Resumption of practice" means any calendar
21 month during which Respondent is practicing as a pharmacist for at least 40 hours as
22 a pharmacist as defined by Business and Professions Code section 4000 et seq.

23 **13. Violation of Probation**

24 If Respondent has not complied with any term or condition of probation, the Board shall
25 have continuing jurisdiction over Respondent, and probation shall automatically be extended,
26 until all terms and conditions have been satisfied or the board has taken other action as deemed
27 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
28 to impose the penalty that was stayed.

1 If Respondent violates probation in any respect, the Board, after giving Respondent notice
2 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
3 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
4 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
5 a petition to revoke probation or an accusation is filed against Respondent during probation, the
6 Board shall have continuing jurisdiction and the period of probation shall be automatically
7 extended until the petition to revoke probation or accusation is heard and decided.

8 **14. Completion of Probation**

9 Upon written notice by the Board or its designee indicating successful completion of
10 probation, Respondent's license will be fully restored. After the first year of probation, if in full
11 compliance with its terms, Respondent may petition the Board for modification or termination of
12 probation, consistent with the provisions of Business and Professions Code section 4309,
13 subdivisions (b) through (i), inclusive.

14 **15. Community Services Program**

15 Within 60 days of the effective date of this decision, Respondent shall submit to the Board
16 or its designee, for prior approval, a community service program in which Respondent shall
17 provide free health-care related services on a regular basis to a community or charitable facility or
18 agency for at least 160 hours over the three years of probation, 80 hours of which must be
19 completed within the first year of probation. Within 30 days of Board approval thereof,
20 Respondent shall submit documentation to the board demonstrating commencement of the
21 community service program. A record of this notification must be provided to the board upon
22 request. Respondent shall report on progress with the community service program in the
23 quarterly reports. Failure to timely submit, commence, or comply with the program shall be
24 considered a violation of probation.

25 **16. No Ownership of Licensed Premises**

26 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
27 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
28 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell

1 or transfer any legal or beneficial interest in any entity licensed by the Board within 90 days
2 following the effective date of this decision and shall immediately thereafter provide written
3 proof thereof to the Board. Failure to timely divest any legal or beneficial interest(s) or provide
4 documentation thereof shall be considered a violation of probation.

5 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
6 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
7 business, firm, partnership, or corporation licensed by the Board. If Respondent currently owns
8 or has any legal or beneficial interest in, or serves as a manager, administrator, member, officer,
9 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
10 or hereinafter licensed by the Board, Respondent may continue to serve in such capacity or hold
11 that interest, but only to the extent of that position or interest as of the effective date of this
12 decision. Violation of this restriction shall be considered a violation of probation.

13 **17. Separate File of Records**

14 Respondent shall maintain and make available for inspection a separate file of all records
15 pertaining to the acquisition or disposition of all controlled substances. Failure to maintain such
16 file or make it available for inspection shall be considered a violation of probation.

17 **18. Report of Controlled Substances**

18 Respondent shall submit quarterly reports to the Board detailing the total acquisition and
19 disposition of such controlled substances as the Board may direct. Respondent shall specify the
20 manner of disposition (e.g., by prescription, due to burglary, etc.) or acquisition (e.g., from a
21 manufacturer, from another retailer, etc.) of such controlled substances. Respondent shall report
22 on a quarterly basis or as directed by the board. The report shall be delivered or mailed to the
23 Board no later than ten days following the end of the reporting period. Failure to timely prepare
24 or submit such reports shall be considered a violation of probation.

25 **19. Consultant for Owner or Pharmacist-In-Charge**

26 During the period of probation, Respondent shall not supervise any intern pharmacist, or
27 serve as a consultant to any entity licensed by the board. In the event that the Respondent is
28 currently or becomes the pharmacist-in-charge of a pharmacy, the pharmacy shall retain an

1 independent consultant at its own expense who shall be responsible for reviewing pharmacy
2 operations on a quarterly basis for compliance by Respondent with state and federal laws and
3 regulations governing the practice of pharmacy and for compliance by Respondent with the
4 obligations of a pharmacist-in-charge. The consultant shall be a pharmacist licensed by and not
5 on probation with the Board and whose name shall be submitted to the board or its designee, for
6 prior approval, within 30 days of the effective date of this decision. Respondent shall not be a
7 pharmacist-in-charge at more than one pharmacy. The Board may, in case of an employment
8 change by Respondent or for other reasons as deemed appropriate by the Board or its designee,
9 preclude the respondent from acting as a pharmacist-in-charge. Failure to timely retain, seek
10 approval of, or ensure timely reporting by the consultant shall be considered a violation of
11 probation.

12 20. **Ethics Course**

13 Within 60 calendar days of the effective date of this decision, Respondent shall enroll in a
14 course in ethics of not less than 22 credit hours, at Respondent's expense, approved in advance by
15 the board or its designee. Failure to initiate the course during the first year of probation, and
16 complete it within the second year of probation, is a violation of probation.

17 Respondent shall submit a certificate of completion to the Board or its designee within five
18 days after completing the course.

19 21. **Full Compliance**

20 This Stipulated Settlement and Order for Public Reprimand as a resolution to the charges in
21 the Fourth Amended Accusation is contingent upon Respondent's full compliance with all
22 conditions of this Order. If Respondent fails to satisfy these conditions, he agrees the Board can
23 file a supplemental accusation for unprofessional conduct based on his failure to comply with the
24 terms of this Order as an independent basis for disciplinary action pursuant to Business and
25 Professions Code section 4301. In the event that Respondent fails to satisfy the above conditions,
26 Respondent understands and agrees that the original Accusation shall be reinstated and
27 Respondent agrees to waive any hearing to the statute limitations as to the original Accusation.
28 Respondent further understands and agrees that the Board will be entitled to proceed on both the

1 original Accusation and a supplemental accusation based on his failure to comply with the above
2 conditions.

3 ACCEPTANCE

4 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
5 discussed it with my attorney, James E. McElroy, Esq. I understand the stipulation and the effect
6 it will have on my Registered Pharmacist. I enter into this Stipulated Settlement and Disciplinary
7 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
8 of the Board of Pharmacy.

9
10 DATED: Nov. 18, 2011



DONALD WEEKS, RPH
Respondent

11
12
13 I have read and fully discussed with Respondent Donald Weeks, RPH the terms and
14 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
15 I approve its form and content.

16
17 DATED: Nov 18, 2011



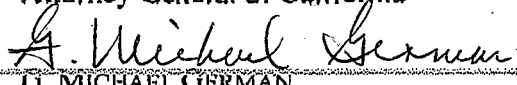
JAMES E. McELROY, ESQ.
Attorney for Respondent

18
19
20 ENDORSEMENT

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

23
24 DATED: November 18, 2011

KAMALA D. HARRIS
Attorney General of California



G. MICHAEL GERMAN
Deputy Attorney General
Attorneys for Complainant

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27
28 SD2008800221

Exhibit A

Fourth Amended Accusation No. 3167

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Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 G. MICHAEL GERMAN
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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. 3167

12 **DONALD WEEKS, RPH**
833 S Main Street, A-137
13 Fallbrook, CA 92028

OAH No. 2010020553

FOURTH AMENDED ACCUSATION

14 Original Pharmacist License No. RPH 38871

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Complainant Virginia Herold brings this Fourth Amended Accusation solely in her
19 official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of
20 Consumer Affairs.

21 2. On August 23, 1984, the Board issued Original Pharmacist License No. RPH
22 38871 to Respondent Donald Weeks, RPH. The license will expire on February 29, 2012, unless
23 renewed.

24 3. During all relevant times herein, Respondent was the Pharmacist-in-Charge (PIC)
25 of Fallbrook Pharmacy #2, located at 343 E Alvarado St., Suite C, Fallbrook, CA 92028.^{1/}

26
27 1. In 1994, the Board issued Original Pharmacy Permit Number PHY 39905 to Fallbrook
Pharmacy, Inc., aka Fallbrook Pharmacy #2, Tip Clements, President, Sandra Clements, Vice
28 President, and Richard Clements, Secretary. The Original Pharmacy permit was in full force and
(continued...)

JURISDICTION

1
2 4. This Accusation is brought before the Board, Department of Consumer Affairs,
3 under the authority of the following laws. All section references are to the Business and
4 Professions Code (Code) unless otherwise indicated.

5 5. Section 4300 of the Code provides that every license issued by the Board may be
6 suspended or revoked.

7 6. Section 4301 of the Code states in pertinent part that:

8 The board shall take action against any holder of a license who is guilty of
9 unprofessional conduct Unprofessional conduct shall include, but is not limited to,
any of the following:

10

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

13

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

16

17 7. Section 4081 of the Code states in pertinent part that:

18 (a) All records of manufacture and of sale, acquisition, or disposition of
19 dangerous drugs or dangerous devices shall be at all times during business hours
open to inspection by authorized officers of the law, and shall be preserved for at
20 least three years from the date of making. A current inventory shall be kept by
every . . . pharmacy . . . holding a currently valid and unrevoked certificate,
21 license, permit, registration, or exemption under Division 2 (commencing with
Section 1200) of the Health and Safety Code or under Part 4 (commencing with
22 Section 16000) of Division 9 of the Welfare and Institutions Code who maintains a
stock of dangerous drugs or dangerous devices.

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

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27 effect at all times relevant to the charges brought herein. That license has since been revoked
28 outright, pursuant to a stipulated decision in Accusation Case # 3029.

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.....
8. Code section 4113 states that in pertinent part that:

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

9. Code section 4067, subdivision (a), states:

(a) No person or entity shall dispense or furnish, or cause to be dispensed or furnished, dangerous drugs or dangerous devices, as defined in Section 4022, on the Internet for delivery to any person in this state without a prescription issued pursuant to a good faith prior examination of a human or animal for whom the prescription is meant if the person or entity either knew or reasonably should have known that the prescription was not issued pursuant to a good faith prior examination of a human or animal, or if the person or entity did not act in accordance with Section 1761 of Title 16 of the California Code of Regulations.

10. Code section 125.3 states, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

11. Section 1718 of Title 16 of the California Code of Regulations (CCR) states:

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

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

12. Section 1761 of Title 16 of the California Code of Regulations (CCR) states:

(a) No pharmacist shall compound or dispense any prescription which contains any significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any such prescription, the pharmacist shall contact the prescriber to obtain the information needed to validate the prescription.

1 (b) Even after conferring with the prescriber, a pharmacist shall not
2 compound or dispense a controlled substance prescription where the pharmacist
3 knows or has objective reason to know that said prescription was not issued for a
4 legitimate medical purpose.

5 13. Title 21 of the Code of Federal Regulations (CFR) states, in pertinent part:

6 a. 21 CFR section 1304.11(c) requires that a registrant take a new inventory
7 of all controlled substance stocks on hand at least every two years.

8 DRUGS

9 14. "Vicodin" is a brand name for hydrocodone with APAP 5/500, and is a Schedule
10 III controlled substance, per H&S Code §11056.

11 15. "Vicodin ES" is a brand name for hydrocodone with APAP 7.5/750, and is a
12 Schedule III controlled substance, per H&S Code §11056.

13 16. "Norco" is a brand name for hydrocodone with APAP 10/325, and is a
14 Schedule III controlled substance, per H&S Code §11056.

15 CHARGES AND ALLEGATIONS

16 17. During all times relevant herein, at 343 E. Alvarado in Fallbrook, California,
17 Fallbrook Pharmacy, Inc. (Fallbrook) held two different original pharmacy permits: Original
18 Pharmacy Permit No. PHY 38260, issued to the corporation doing business as Fallbrook
19 Pharmacy (Fallbrook Pharmacy). This permit was for the main pharmacy at street level in the
20 building. Tip Clements, the President of Fallbrook, a family owned and run corporation, was the
21 PIC for this main pharmacy. The second original pharmacy permit, number PHY 39905, was
22 issued to Fallbrook under the name Fallbrook Pharmacy #2. (FP#2). Respondent Weeks was the
23 PIC for FP#2 from the time the Board granted the license until the present. FP#2 was upstairs
24 from Fallbrook Pharmacy, and occupied a small portion of the upstairs area of the building
25 primarily occupied by FP#1.

26 18. As of December 2004, FP#2 did not keep a separate drug inventory log. The two
27 pharmacies combined their drug inventory log.

28 19. FP#2 did not comply with the federal requirement of CFR 1304.11(c) to maintain
or conduct a DEA biennial inventory. (Neither did Fallbrook Pharmacy.)

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct: Failure re Complete Accountability for Controlled Substances)**

3 20. Respondent's pharmacist license is subject to disciplinary action under Code
4 section 4301(o) in conjunction with Code section 4113, 16 CCR section 1718, and 21 CFR
5 section 1304.11(c) in that he, as PIC of FP#2, failed to maintain or do the required DEA biennial
6 inventory for FP#2, as is more particularly alleged above and incorporated herein by reference.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct: Violation of Governing Statutes and Regulations)**

9 21. Respondent's pharmacist license is subject to disciplinary action under
10 Code sections 4081(a) and (b), and 4301(j) and (o) for violating the laws, statutes, and regulations
11 of the state of California, as follows:

12 a. Under Code section 4067(a), by dispensing or furnishing, or causing to be
13 dispensed or furnished, dangerous drugs on the Internet for delivery to persons in this state
14 without a prescription issued pursuant to a good faith prior examination of a human for whom the
15 prescription is meant, as more particularly alleged above and incorporated herein by reference.

16 b. Under 16 CCR section 1761, by compounding or dispensing prescriptions
17 containing significant errors, omissions, irregularities, uncertainties, ambiguities or alterations,
18 without contacting the prescriber to obtain the information needed to validate the prescription, or
19 alternatively, even after conferring with the prescriber, compounding or dispensing controlled
20 substance prescriptions where Respondent knew or had objective reason to know that said
21 prescriptions were not issued for a legitimate medical purpose, as more particularly alleged above
22 and incorporated herein by reference.

23 **PRAYER**

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

26 1. Revoking or suspending Original Pharmacist License Number RPH 38871, issued
27 to Donald Weeks, RPH;

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2. Ordering Donald Weeks, RPH to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: November 18, 2011

for A. Michael German
VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant