

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

In the Matter of the Accusation Against:

Case No. 3230

**DAIRYLAND PHARMACY**

8298 Lander Ave.  
Hilmar, CA 95324

Pharmacy License No. PHY 39285

and

**GURMUKH SINGH GILL**

8298 Lander Ave.  
Hilmar, CA 95324

Pharmacist License No. RPH 37061

Respondent.

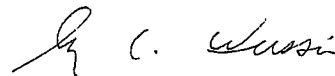
**DECISION AND ORDER**

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 March 28, 2011.

It is so ORDERED on February 25, 2011.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
STANLEY C. WEISSER  
Board President

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
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*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:  
12  
13 **GURMUKH SINGH GILL dba**  
**DAIRYLAND PHARMACY**  
8298 Lander Ave.  
14 Hilmar, CA 95324  
Original Pharmacy Permit No. PHY 39285,  
15  
16 and  
17 **GURMUKH SINGH GILL**  
8298 Lander Ave.  
Hilmar, CA 95324  
18 Original Pharmacist License No. RPH 37061  
19 Respondents.

Case No. 3230

OAH No. 2009080263

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

20  
21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
22 entitled proceedings that the following matters are true:

23 PARTIES

24 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
25 She brought this action solely in her official capacity and is represented in this matter by Edmund  
26 G. Brown Jr., Attorney General of the State of California, by Geoffrey S. Allen, Deputy Attorney  
27 General.  
28

1 2. On or about June 29, 1993, the Board of Pharmacy issued Original Pharmacy Permit  
2 Number PHY 39285 (Permit) to Gurmukh Singh Gill dba Dairyland Pharmacy (Respondent  
3 Dairyland). The Permit was in full force and effect at all times relevant to the charges brought  
4 herein and will expire on June 1, 2011, unless renewed.

5 3. On or about December 4, 1981, the Board of Pharmacy issued Original Pharmacist  
6 License Number RPH 37061 (License) to Gurmukh Singh Gill (Respondent Gill). The License  
7 was in full force and effect at all times relevant to the charges brought herein and will expire on  
8 September 30, 2012, unless renewed.

9 4. Respondent Dairyland and Respondent Gill are represented in this proceeding by  
10 attorney Gregory Matzen, whose address is: Lewis, Brisbois, Bisgaard & Smith LLP, 2850  
11 Gateway Oak Dr., Suite 450, Sacramento, CA 95833.

12 JURISDICTION

13 5. Accusation No. 3230 (Accusation) was filed before the Board of Pharmacy (Board),  
14 Department of Consumer Affairs, and is currently pending against Respondent Dairyland and  
15 Respondent Gill. The Accusation and all other statutorily required documents were properly  
16 served on Respondent Dairyland and Respondent Gill on April 30, 2009. Respondent timely filed  
17 their Notice of Defense contesting the Accusation. A copy of the Accusation is attached as  
18 exhibit A and incorporated herein by reference.

19 ADVISEMENT AND WAIVERS

20 6. Respondent Dairyland and Respondent Gill have carefully read, fully discussed with  
21 counsel, and understands the charges and allegations in the Accusation. Respondent Dairyland  
22 and Respondent Gill have also carefully read, fully discussed with counsel, and understand the  
23 effects of this Stipulated Settlement and Disciplinary Order.

24 7. Respondent Dairyland and Respondent Gill are fully aware of their legal rights in this  
25 matter, including the right to a hearing on the charges and allegations in the Accusation; the right  
26 to be represented by counsel at their own expense; the right to confront and cross-examine the  
27 witnesses against them; the right to present evidence and to testify on their own behalf; the right  
28 to the issuance of subpoenas to compel the attendance of witnesses and the production of

1 documents; the right to reconsideration and court review of an adverse decision; and all other  
2 rights accorded by the California Administrative Procedure Act and other applicable laws.

3 8. Respondent Dairyland and Respondent Gill voluntarily, knowingly, and intelligently  
4 waive and gives up each and every right set forth above.

#### 5 CULPABILITY

6 9. Respondent Dairyland and Respondent Gill admit the truth of each and every charge  
7 and allegation in the Accusation.

8 10. Respondent Dairyland and Respondent Gill agree that the Permit and License are  
9 subject to discipline and they agree to be bound by the Board's imposition of discipline as set  
10 forth in the Disciplinary Order below.

#### 11 CONTINGENCY

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

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

25 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an  
26 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
27 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
28 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary

1 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
2 writing executed by an authorized representative of each of the parties.

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

6 **DISCIPLINARY ORDER FOR RESPONDENT DAIRYLAND**

7 IT IS HEREBY ORDERED that Original Pharmacy Permit No. PHY 39285 issued to  
8 Respondent Dairyland is revoked. However, the revocation is stayed and Respondent Dairyland  
9 is placed on probation for five (5) years on the following terms and conditions.

10 1. **Administrative Fine**

11 Respondent Dairyland shall jointly pay with Respondent Gill an administrative fine to the  
12 Board in the amount of twenty-five thousand dollars (\$ 25,000.00). Respondent Dairyland shall  
13 be able to make payments on a payment plan approved by the Board.

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

17 The filing of bankruptcy by Respondent Dairyland shall not relieve Respondent Dairyland  
18 of their responsibility to pay the Board the fine.

19 2. **Obey All Laws**

20 Respondent Dairyland shall obey all state and federal laws and regulations.

21 Respondent Dairyland shall report any of the following occurrences to the Board, in  
22 writing, within seventy-two (72) hours of such occurrence:

- 23 • an arrest or issuance of a criminal complaint for violation of any provision of the  
24 Pharmacy Law, state and federal food and drug laws, or state and federal controlled  
25 substances laws
- 26 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any  
27 criminal complaint, information or indictment
- 28 • a conviction of any crime

- 1 • discipline, citation, or other administrative action filed by any state or federal agency  
2 which involves Respondent Dairyland's Permit or which is related to the practice of  
3 pharmacy or the manufacturing, obtaining, handling or distributing, billing, or  
4 charging for any drug, device or controlled substance.

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

6 **3. Report to the Board**

7 Respondent Dairyland shall report to the Board quarterly, on a schedule as directed by the  
8 Board or its designee. The report shall be made either in person or in writing, as directed.

9 Among other requirements, Respondent Dairyland shall state in each report under penalty of  
10 perjury whether there has been compliance with all the terms and conditions of probation. Failure  
11 to submit timely reports in a form as directed shall be considered a violation of probation. Any  
12 period(s) of delinquency in submission of reports as directed may be added to the total period of  
13 probation. Moreover, if the final probation report is not made as directed, probation shall be  
14 automatically extended until such time as the final report is made and accepted by the board.

15 **4. Interview with the Board**

16 Upon receipt of reasonable prior notice, Respondent Dairyland shall appear in person for  
17 interviews with the Board or its designee, at such intervals and locations as are determined by the  
18 Board or its designee. Failure to appear for any scheduled interview without prior notification to  
19 Board staff, or failure to appear for two (2) or more scheduled interviews with the Board or its  
20 designee during the period of probation, shall be considered a violation of probation.

21 **5. Cooperate with Board Staff**

22 Respondent Dairyland shall cooperate with the Board's inspection program and with the  
23 Board's monitoring and investigation of Respondent Dairyland's compliance with the terms and  
24 conditions of their probation. Failure to cooperate shall be considered a violation of probation.

25 **6. Reimbursement of Board Costs**

26 As a condition precedent to successful completion of probation, Respondent Dairyland shall  
27 jointly pay with Respondent Gill to the Board its costs of investigation and prosecution in the

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1 amount of \$15,000.00. Respondent Dairyland shall be able to make payments on a payment plan  
2 approved by the Board.

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

6 The filing of bankruptcy by Respondent Dairyland shall not relieve Respondent Dairyland  
7 of their responsibility to reimburse the Board its costs of investigation and prosecution.

#### 8 **7. Probation Monitoring Costs**

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

#### 13 **8. Status of License**

14 Respondent Dairyland shall, at all times while on probation, maintain current licensure with  
15 the Board. If Respondent Dairyland submits an application to the Board, and the application is  
16 approved, for a change of location, change of permit or change of ownership, the Board shall  
17 retain continuing jurisdiction over the license, and the Respondent Dairyland shall remain on  
18 probation as determined by the Board. Failure to maintain current licensure shall be considered a  
19 violation of probation.

20 If Respondent Dairyland's Permit expires or is cancelled by operation of law or otherwise at  
21 any time during the period of probation, including any extensions thereof or otherwise, upon  
22 renewal or reapplication Respondent Dairyland's Permit shall be subject to all terms and  
23 conditions of this probation not previously satisfied.

#### 24 **9. License Surrender While on Probation/Suspension**

25 Following the effective date of this decision, should Respondent Dairyland discontinue  
26 business, Respondent Dairyland may tender the premises license to the Board for surrender. The  
27 Board or its designee shall have the discretion whether to grant the request for surrender or take  
28 any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of

1 the license, Respondent Dairyland will no longer be subject to the terms and conditions of  
2 probation.

3 Upon acceptance of the surrender, Respondent Dairyland shall relinquish the premises wall  
4 and renewal license to the board within ten (10) days of notification by the Board that the  
5 surrender is accepted. Respondent Dairyland shall further submit a completed Discontinuance of  
6 Business form according to board guidelines and shall notify the Board of the records inventory  
7 transfer.

8 Respondent Dairyland shall also, by the effective date of this decision, arrange for the  
9 continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written  
10 notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that  
11 identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating  
12 as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five  
13 days of its provision to the pharmacy's ongoing patients, Respondent Dairyland shall provide a  
14 copy of the written notice to the Board. For the purposes of this provision, "ongoing patients"  
15 means those patients for whom the pharmacy has on file a prescription with one or more refills  
16 outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty (60)  
17 days.

18 Respondent Dairyland may not apply for any new licensure from the Board for three (3)  
19 years from the effective date of the surrender. Respondent Dairyland shall meet all requirements  
20 applicable to the license sought as of the date the application for that license is submitted to the  
21 Board.

22 Respondent Dairyland further stipulates that he or she shall reimburse the Board for its  
23 costs of investigation and prosecution prior to the acceptance of the surrender.

24 **10. Notice to Employees**

25 Respondent Dairyland shall, upon or before the effective date of this decision, ensure that  
26 all employees involved in permit operations are made aware of all the terms and conditions of  
27 probation, either by posting a notice of the terms and conditions, circulating such notice, or both.  
28 If the notice required by this provision is posted, it shall be posted in a prominent place and shall



1 remain posted throughout the probation period. Respondent Dairyland shall ensure that any  
2 employees hired or used after the effective date of this decision are made aware of the terms and  
3 conditions of probation by posting a notice, circulating a notice, or both. Additionally,  
4 Respondent Dairyland shall submit written notification to the Board, within fifteen (15) days of  
5 the effective date of this decision, that this term has been satisfied. Failure to submit such  
6 notification to the Board shall be considered a violation of probation.

7 "Employees" as used in this provision includes all full-time, part-time,  
8 volunteer, temporary and relief employees and independent contractors employed or  
9 hired at any time during probation.

10 **11. Owners and Officers: Knowledge of the Law**

11 Respondent Dairyland shall provide, within thirty (30) days after the effective date of this  
12 decision, signed and dated statements from its owners, including any owner or holder of ten  
13 percent (10%) or more of the interest in Respondent Dairyland or Respondent Dairyland's stock,  
14 and any officer, stating under penalty of perjury that said individuals have read and are familiar  
15 with state and federal laws and regulations governing the practice of pharmacy. The failure to  
16 timely provide said statements under penalty of perjury shall be considered a violation of  
17 probation.

18 **12. Posted Notice of Probation**

19 Respondent Dairyland shall prominently post a probation notice provided by the Board in a  
20 place conspicuous and readable to the public. The probation notice shall remain posted during  
21 the entire period of probation.

22 Respondent Dairyland shall not, directly or indirectly, engage in any conduct or make any  
23 statement which is intended to mislead or is likely to have the effect of misleading any patient,  
24 customer, member of the public, or other person(s) as to the nature of and reason for the probation  
25 of the licensed entity.

26 Failure to post such notice shall be considered a violation of probation.

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1           **13. Violation of Probation**

2           If a Respondent Dairyland has not complied with any term or condition of probation, the  
3 Board shall have continuing jurisdiction over Respondent Dairyland's Permit, and probation shall  
4 be automatically extended until all terms and conditions have been satisfied or the Board has  
5 taken other action as deemed appropriate to treat the failure to comply as a violation of probation,  
6 to terminate probation, and to impose the penalty that was stayed.

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

15           **14. Completion of Probation**

16           Upon written notice by the board or its designee indicating successful completion of  
17 probation, Respondent Dairyland's Permit will be fully restored.

18           **15. Community Services Program**

19           Within sixty (60) days of the effective date of this decision, Respondent Dairyland shall  
20 submit to the Board or its designee, for prior approval, a community service program in which  
21 Respondent Dairyland shall provide free health-care related services to a community or charitable  
22 facility or agency of at least one hundred fifty (150) hours during probation.

23           Within thirty (30) days of board approval thereof, Respondent Dairyland shall submit  
24 documentation to the Board demonstrating commencement of the community service program.  
25 Respondent Dairyland shall report on progress with the community service program in the  
26 quarterly reports.

27           Failure to timely submit, commence, or comply with the program shall be considered a  
28 violation of probation.

1           **16. Report of Controlled Substances**

2           Respondent Dairyland owner shall submit quarterly reports to the Board detailing the total  
3 acquisition and disposition of such controlled substances as the Board may direct. Respondent  
4 Dairyland shall specify the manner of disposition (e.g., by prescription, due to burglary, etc.) or  
5 acquisition (e.g., from a manufacturer, from another retailer, etc.) of such controlled substances.  
6 Respondent Dairyland shall report on a quarterly basis or as directed by the Board. The report  
7 shall be delivered or mailed to the Board no later than ten (10) days following the end of the  
8 reporting period. Failure to timely prepare or submit such reports shall be considered a violation  
9 of probation.

10                                   **DISCIPLINARY ORDER FOR RESPONDENT GILL**

11           IT IS HEREBY ORDERED that Original Pharmacist License No. RPH 37061 issued to  
12 Respondent Gill is revoked. However, the revocation is stayed and Respondent Gill is placed on  
13 probation for five (5) years on the following terms and conditions.

14           **17. Administrative Fine**

15           Respondent Gill shall jointly pay with Respondent Dairyland an administrative fine to the  
16 Board in the amount of twenty-five thousand dollars (\$ 25,000.00). Respondent Gill shall be able  
17 to make payments on a payment plan approved by the Board.

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

21           The filing of bankruptcy by Respondent Gill shall not relieve Respondent Gill of his  
22 responsibility to pay the Board the fine.

23           **18. Suspension**

24           As part of probation, Respondent Gill is suspended from the practice of pharmacy for  
25 ninety (90) days beginning the effective date of this decision.

26           During suspension, Respondent Gill shall not enter any pharmacy area or any portion of the  
27 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of  
28 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices

1 or controlled substances are maintained. Respondent Gill shall not practice pharmacy nor do any  
2 act involving drug selection, selection of stock, manufacturing, compounding, dispensing or  
3 patient consultation; nor shall Respondent Gill manage, administer, or be a consultant to any  
4 licensee of the Board, or have access to or control the ordering, manufacturing or dispensing of  
5 dangerous drugs and devices or controlled substances.

6 Respondent Gill shall not engage in any activity that requires the professional judgment of a  
7 pharmacist. Respondent Gill shall not direct or control any aspect of the practice of pharmacy.  
8 Respondent Gill shall not perform the duties of a pharmacy technician or a designated  
9 representative for any entity licensed by the Board.

10 Subject to the above restrictions, Respondent Gill may continue to own or hold an interest  
11 in any licensed premises in which he holds an interest at the time this decision becomes effective  
12 unless otherwise specified in this order.

13 Failure to comply with this suspension shall be considered a violation of probation.

14 **19. Obey All Laws**

15 Respondent Gill shall obey all state and federal laws and regulations.

16 Respondent Gill shall report any of the following occurrences to the Board, in writing,  
17 within seventy-two (72) hours of such occurrence:

- 18 • an arrest or issuance of a criminal complaint for violation of any provision of the  
19 Pharmacy Law, state and federal food and drug laws, or state and federal controlled  
20 substances laws
- 21 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any  
22 criminal complaint, information or indictment
- 23 • a conviction of any crime
- 24 • discipline, citation, or other administrative action filed by any state or federal agency  
25 which involves Respondent Gill's License or which is related to the practice of  
26 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging  
27 for any drug, device or controlled substance.

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

1           **20. Report to the Board**

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

10           **21. Interview with the Board**

11           Upon receipt of reasonable prior notice, Respondent Gill shall appear in person for  
12 interviews with the Board or its designee, at such intervals and locations as are determined by the  
13 Board or its designee. Failure to appear for any scheduled interview without prior notification to  
14 Board staff, or failure to appear for two (2) or more scheduled interviews with the Board or its  
15 designee during the period of probation, shall be considered a violation of probation.

16           **22. Cooperate with Board Staff**

17           Respondent Gill shall cooperate with the Board's inspection program and with the Board's  
18 monitoring and investigation of Respondent Gill's compliance with the terms and conditions of  
19 his probation. Failure to cooperate shall be considered a violation of probation.

20           **23. Continuing Education**

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

23           **24. Notice to Employers**

24           During the period of probation, Respondent Gill shall notify all present and prospective  
25 employers of the decision in Board case number 3230 and the terms, conditions and restrictions  
26 imposed on Respondent Gill by the decision, as follows:

27           Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
28 Respondent Gill undertaking any new employment, Respondent Gill shall cause his direct

1 supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during  
2 Respondent Gill's tenure of employment) and owner to report to the Board in writing  
3 acknowledging that the listed individual(s) has/have read the decision in Board case number  
4 3230, and terms and conditions imposed thereby. It shall be Respondent Gill's responsibility to  
5 ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

6 If Respondent Gill works for or is employed by or through a pharmacy employment  
7 service, Respondent Gill must notify his direct supervisor, pharmacist-in-charge, and owner at  
8 every entity licensed by the Board of the terms and conditions of the decision in Board case  
9 number 3230 in advance of the Respondent Gill commencing work at each licensed entity. A  
10 record of this notification must be provided to the Board upon request.

11 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
12 (15) days of Respondent Gill undertaking any new employment by or through a pharmacy  
13 employment service, Respondent Gill shall cause his direct supervisor with the pharmacy  
14 employment service to report to the Board in writing acknowledging that he has read the decision  
15 in Board case number 3230 and the terms and conditions imposed thereby. It shall be Respondent  
16 Gill's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely  
17 acknowledgment(s) to the Board.

18 Failure to timely notify present or prospective employer(s) or to cause that/those  
19 employer(s) to submit timely acknowledgments to the board shall be considered a violation of  
20 probation.

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

25 **25. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**  
26 **Designated Representative-in-Charge, or Serving as a Consultant**

27 During the period of probation, Respondent Gill shall not supervise any intern pharmacist,  
28 be the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the

1 Board nor serve as a consultant unless otherwise specified in this order. Assumption of any such  
2 unauthorized supervision responsibilities shall be considered a violation of probation.

3 **26. Reimbursement of Board Costs**

4 As a condition precedent to successful completion of probation Respondent Gill shall  
5 jointly pay with Respondent Dairyland to the Board its costs of investigation and prosecution in  
6 the amount of \$15,000.00. Respondent Gill shall be able to make payments on a payment plan  
7 approved by the Board.

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

11 The filing of bankruptcy by Respondent Gill shall not relieve Respondent Gill of his  
12 responsibility to reimburse the Board its costs of investigation and prosecution.

13 **27. Probation Monitoring Costs**

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

18 **28. Status of License**

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

22 If Respondent Gill's License expires or is cancelled by operation of law or otherwise at any  
23 time during the period of probation, including any extensions thereof due to tolling or otherwise,  
24 upon renewal or reapplication Respondent Gill's License shall be subject to all terms and  
25 conditions of this probation not previously satisfied.

26 **29. License Surrender While on Probation/Suspension**

27 Following the effective date of this decision, should Respondent Gill cease practice due to  
28 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,

1 Respondent Gill may tender his License to the board for surrender. The Board or its designee  
2 shall have the discretion whether to grant the request for surrender or take any other action it  
3 deems appropriate and reasonable. Upon formal acceptance of the surrender of the License,  
4 Respondent Gill will no longer be subject to the terms and conditions of probation. This  
5 surrender constitutes a record of discipline and shall become a part of the Respondent Gill's  
6 license history with the board.

7 Upon acceptance of the surrender, Respondent Gill shall relinquish his pocket and wall  
8 license to the Board within ten (10) days of notification by the Board that the surrender is  
9 accepted. Respondent Gill may not reapply for any license from the board for three (3) years from  
10 the effective date of the surrender. Respondent Gill shall meet all requirements applicable to the  
11 license sought as of the date the application for that license is submitted to the Board, including  
12 any outstanding costs.

13 **30. Notification of a Change in Name, Residence Address, Mailing Address or**  
14 **Employment**

15 Respondent Gill shall notify the Board in writing within ten (10) days of any change of  
16 employment. Said notification shall include the reasons for leaving, the address of the new  
17 employer, the name of the supervisor and owner, and the work schedule if known. Respondent  
18 Gill shall further notify the Board in writing within ten (10) days of a change in name, residence  
19 address, mailing address, or phone number.

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

22 **31. Tolling of Probation**

23 Except during periods of suspension, Respondent Gill shall, at all times while on probation,  
24 be employed as a pharmacist in California for a minimum of forty (40) hours per calendar month.  
25 Any month during which this minimum is not met shall toll the period of probation, i.e., the  
26 period of probation shall be extended by one month for each month during which this minimum is  
27 not met. During any such period of tolling of probation, Respondent Gill must nonetheless  
28 comply with all terms and conditions of probation.



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

6           It is a violation of probation for Respondent Gill's probation to remain tolled pursuant to the  
7 provisions of this condition for a total period, counting consecutive and non-consecutive months,  
8 exceeding thirty-six (36) months.

9           "Cessation of practice" means any calendar month during which Respondent  
10 Gill is not practicing as a pharmacist for at least forty (40) hours, as defined by  
11 Business and Professions Code section 4000 et seq. "Resumption of practice" means  
12 any calendar month during which Respondent Gill is practicing as a pharmacist for at  
13 least forty (40) hours as a pharmacist as defined by Business and Professions Code  
14 section 4000 et seq.

15           **32. Violation of Probation**

16           If a Respondent Gill has not complied with any term or condition of probation, the Board  
17 shall have continuing jurisdiction over respondent, and probation shall automatically be extended,  
18 until all terms and conditions have been satisfied or the Board has taken other action as deemed  
19 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and  
20 to impose the penalty that was stayed.

21           If Respondent Gill violates probation in any respect, the Board, after giving Respondent  
22 Gill notice and an opportunity to be heard, may revoke probation and carry out the disciplinary  
23 order that was stayed. Notice and opportunity to be heard are not required for those provisions  
24 stating that a violation thereof may lead to automatic termination of the stay and/or revocation of  
25 the License. If a petition to revoke probation or an accusation is filed against Respondent Gill  
26 during probation, the Board shall have continuing jurisdiction and the period of probation shall be  
27 automatically extended until the petition to revoke probation or accusation is heard and decided.

28       ///

1           **33. Completion of Probation**

2           Upon written notice by the Board or its designee indicating successful completion of  
3 probation, Respondent Gill's License will be fully restored.

4           **34. Community Services Program**

5           Within sixty (60) days of the effective date of this decision, Respondent Gill shall submit to  
6 the Board or its designee, for prior approval, a community service program in which Respondent  
7 Gill shall provide free health-care related services on a regular basis to a community or charitable  
8 facility or agency for at least one hundred fifty (150) hours per year for each of the five (5) years  
9 of probation for a total of seven hundred fifty (750) hours. Within thirty (30) days of Board  
10 approval thereof, Respondent Gill shall submit documentation to the Board demonstrating  
11 commencement of the community service program. A record of this notification must be  
12 provided to the Board upon request. Respondent Gill shall report on progress with the  
13 community service program in the quarterly reports. Failure to timely submit, commence, or  
14 comply with the program shall be considered a violation of probation.

15           **35. Remedial Education**

16           Within sixty (60) days of the effective date of this decision, Respondent Gill shall submit to  
17 the Board or its designee, for prior approval, an appropriate program of remedial education  
18 related to identifying and preventing drug losses. The program of remedial education shall  
19 consist of at least twenty (20) hours, which shall be completed within twenty-four (24) months of  
20 the effective date of this decision at Respondent Gill's own expense. All remedial education shall  
21 be in addition to, and shall not be credited toward, continuing education (CE) courses used for  
22 License or Permit renewal purposes.

23           Failure to timely submit or complete the approved remedial education shall be considered a  
24 violation of probation. The period of probation will be automatically extended until such  
25 remedial education is successfully completed and written proof, in a form acceptable to the  
26 Board, is provided to the Board or its designee.

27           Following the completion of each course, the Board or its designee may require the  
28 Respondent Gill, at his own expense, to take an approved examination to test the Respondent

1 Gill's knowledge of the course. If Respondent Gill does not achieve a passing score on the  
2 examination, this failure shall be considered a violation of probation. Any such examination  
3 failure shall require Respondent Gill to take another course approved by the Board in the same  
4 subject area.

5 **36. No Ownership of Licensed Premises**

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

15 **37. Separate File of Records**

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

20 **38. Consultant for Owner or Pharmacist-In-Charge**

21 During the period of probation, Respondent Gill shall not supervise any intern pharmacist  
22 or serve as a consultant to any entity licensed by the Board. Respondent Gill may be a  
23 pharmacist-in-charge. However, if during the period of probation Respondent Gill serves as a  
24 pharmacist-in-charge, Respondent Gill shall retain an independent consultant at his own expense  
25 who shall be responsible for reviewing pharmacy operations on a monthly basis for compliance  
26 by Respondent Gill with state and federal laws and regulations governing the practice of  
27 pharmacy and for compliance by Respondent Gill with the obligations of a pharmacist-in-charge.  
28 The consultant shall be a pharmacist licensed by and not on probation with the Board and whose

1 name shall be submitted to the Board or its designee, for prior approval, within thirty (30) days of  
2 the effective date of this decision. Respondent Gill shall not be a pharmacist-in-charge at more  
3 than one pharmacy or at any pharmacy of which they is not the sole owner. Failure to timely  
4 retain, seek approval of, or ensure timely reporting by the consultant shall be considered a  
5 violation of probation.

6 **39. Tolling of Suspension**

7 During the period of suspension, Respondent Gill shall not leave California for any period  
8 exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess  
9 of the (10) days during suspension shall be considered a violation of probation. Moreover, any  
10 absence from California during the period of suspension exceeding ten (10) days shall toll the  
11 suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days  
12 Respondent Gill is absent from California. During any such period of tolling of suspension,  
13 Respondent Gill must nonetheless comply with all terms and conditions of probation.

14 Respondent Gill must notify the Board in writing within ten (10) days of departure, and  
15 must further notify the Board in writing within ten (10) days of return. The failure to provide  
16 such notification(s) shall constitute a violation of probation. Upon such departure and return,  
17 Respondent Gill shall not resume the practice of pharmacy until notified by the Board that the  
18 period of suspension has been satisfactorily completed.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Gregory Matzen. I understand the stipulation and the effect it will have on my License and Permit. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: \_\_\_\_\_

GURMUKH SINGH GILL  
Individually and on behalf of Dairyland Pharmacy  
Respondents

I have read and fully discussed with Respondent Dairyland and Respondent Gill the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: \_\_\_\_\_

GREGORY MATZEN  
Attorney for Respondents

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: 11/2/10

Respectfully Submitted,

EDMUND G. BROWN JR.  
Attorney General of California  
ARTHUR D. TAGGART  
Supervising Deputy Attorney General

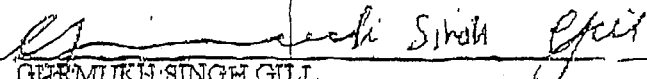
  
GEOFFREY S. ALLEN  
Deputy Attorney General  
*Attorneys for Complainant*

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ACCEPTANCE

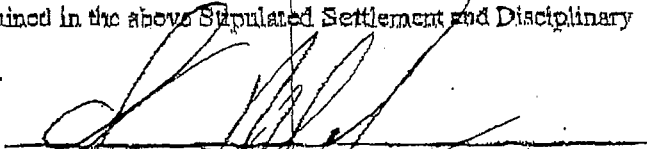
I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Gregory Matzen. I understand the stipulation and the effect it will have on my License and Permit. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 11-1-10

  
GURMUKH SINGH GILL  
Individually and on behalf of Dairyland Pharmacy Respondents

I have read and fully discussed with Respondent Dairyland and Respondent Gill the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 11-1-10

  
GREGORY MATZEN  
Attorney for Respondents

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: \_\_\_\_\_

Respectfully Submitted,  
EDMUND G. BROWN JR.  
Attorney General of California  
ARTHUR D. TAGGART  
Supervising Deputy Attorney General

GEOFFREY S. ALLEN  
Deputy Attorney General  
Attorneys for Complainant

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**Exhibit A.**

Accusation No. 3230

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 GEOFFREY S. ALLEN, State Bar No. 193338  
Deputy Attorney General  
4 1300 I Street, Suite 125  
P.O. Box 944255  
5 Sacramento, CA 94244-2550  
Telephone: (916) 324-5341  
6 Facsimile: (916) 327-8643  
E-mail: Geoffrey.Allen@doj.ca.gov

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. 3230

12 **GURMUKH SINGH GILL dba**  
13 **DAIRYLAND PHARMACY**  
8298 Lander Avenue  
14 Hilmar California 95324  
Original Pharmacy Permit No. PHY 39285,

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

15 and

16 **GURMUKH SINGH GILL**  
17 8298 Lander Avenue  
Hilmar California 95324  
18 Original Pharmacist License No. RPH 37061

19 Respondents.

20  
21 Complainant alleges:

22 PARTIES

23 1. Virginia Herold (Complainant) brings this Accusation solely in her  
24 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer  
25 Affairs.

26 2. On or about June 29, 1993, the Board of Pharmacy issued Original  
27 Pharmacy Permit Number PHY 39285 (Permit) to Gurmukh Singh Gill dba Dairyland Pharmacy

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1 (Respondent Dairyland). The Permit was in full force and effect at all times relevant to the  
2 charges brought herein and will expire on June 1, 2009, unless renewed.

3 3. On or about December 4, 1981, the Board of Pharmacy issued Original  
4 Pharmacist License Number RPH 37061 (License) to Gurmukh Singh Gill (Respondent Gill).  
5 The License was in full force and effect at all times relevant to the charges brought herein and  
6 will expire on September 30, 2010, unless 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 4300 of the Code states, in pertinent part:

12 (a) Every license issued may be suspended or revoked.

13 (b) The board shall discipline the holder of any license issued by the  
14 board, whose default has been entered or whose case has been heard by the board  
and found guilty, by any of the following methods:

15 (1) Suspending judgment.

16 (2) Placing him or her upon probation.

17 (3) Suspending his or her right to practice for a period not  
18 exceeding one year.

19 (4) Revoking his or her license.

20 (5) Taking any other action in relation to disciplining him or her as  
21 the board in its discretion may deem proper.

22 (e) The proceedings under this article shall be conducted in accordance  
23 with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the  
24 Government Code, and the board shall have all the powers granted therein. The  
25 action shall be final, except that the propriety of the action is subject to review by  
26 the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

27 6. Section 4301 of the Code states, in pertinent part:

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

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

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(o) Violating or attempting to violate, directly or indirectly, or assisting in or 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.

.....  
7. Section 4059.5, subdivision (a), of the Code states:

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

8. Section 4081 of the Code states:

(a) All records of manufacture and of sale, acquisition, or disposition of 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 least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

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

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

9. Section 4104 of the Code states:

(a) Every pharmacy shall have in place procedures for taking action to protect the public when a licensed individual employed by or with the pharmacy is discovered or known to be chemically, mentally, or physically impaired to the extent it affects his or her ability to practice the profession or occupation authorized by his or her license, or is discovered or known to have engaged in the theft, diversion, or self-use of dangerous drugs.

(b) Every pharmacy shall have written policies and procedures for addressing chemical, mental, or physical impairment, as well as theft, diversion, or self-use of dangerous drugs, among licensed individuals employed by or with the pharmacy.

1 (c) Every pharmacy shall report to the board, within 30 days of the receipt  
2 or development of the following information with regard to any licensed  
individual employed by or with the pharmacy:

3 (1) Any admission by a licensed individual of chemical, mental, or  
4 physical impairment affecting his or her ability to practice.

5 (2) Any admission by a licensed individual of theft, diversion, or  
6 self-use of dangerous drugs.

7 (3) Any video or documentary evidence demonstrating chemical,  
8 mental, or physical impairment of a licensed individual to the extent it  
9 affects his or her ability to practice.

10 (4) Any video or documentary evidence demonstrating theft,  
11 diversion, or self-use of dangerous drugs by a licensed individual.

12 (5) Any termination based on chemical, mental, or physical  
13 impairment of a licensed individual to the extent it affects his or her  
14 ability to practice.

15 (6) Any termination of a licensed individual based on theft,  
16 diversion, or self-use of dangerous drugs.

17 (d) Anyone making a report authorized or required by this section shall  
18 have immunity from any liability, civil or criminal, that might otherwise arise  
19 from the making of the report. Any participant shall have the same immunity with  
20 respect to participation in any administrative or judicial proceeding resulting from  
21 the report.

22 10. Section 4105 of the Code states:

23 (a) All records or other documentation of the acquisition and disposition  
24 of dangerous drugs and dangerous devices by any entity licensed by the board  
25 shall be retained on the licensed premises in a readily retrievable form.

26 (b) The licensee may remove the original records or documentation from  
27 the licensed premises on a temporary basis for license-related purposes.  
28 However, a duplicate set of those records or other documentation shall be retained  
on the licensed premises.

(c) The records required by this section shall be retained on the licensed  
premises for a period of three years from the date of making.

(d) Any records that are maintained electronically shall be maintained so  
that the pharmacist-in-charge, the pharmacist on duty if the pharmacist-in-charge  
is not on duty, or, in the case of a veterinary food-animal drug retailer or  
wholesaler, the designated representative on duty, shall, at all times during which  
the licensed premises are open for business, be able to produce a hard copy and  
electronic copy of all records of acquisition or disposition or other drug or  
dispensing-related records maintained electronically.

(e) (1) Notwithstanding subdivisions (a), (b), and (c), the board, may  
upon written request, grant to a licensee a waiver of the requirements that  
the records described in subdivisions (a), (b), and (c) be kept on the  
licensed premises.

(2) A waiver granted pursuant to this subdivision shall not affect  
the board's authority under this section or any other provision of this  
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11. Health and Safety Code section 11209, subdivision (a), states:

(a) No person shall deliver Schedule II, III, or IV controlled substances to a pharmacy or pharmacy receiving area, nor shall any person receive controlled substances on behalf of a pharmacy unless, at the time of delivery, a pharmacist or authorized receiving personnel signs a receipt showing the type and quantity of the controlled substances received. Any discrepancy between the receipt and the type or quantity of controlled substances actually received shall be reported to the delivering wholesaler or manufacturer by the next business day after delivery to the pharmacy.

12. California Code of Regulations, title 16, (CCR) section 1714, states:

....

(b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and equipment so that drugs are safely and properly prepared, maintained, secured and distributed. The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice of pharmacy.

....

(d) Each pharmacist while on duty shall be responsible for the security of the prescription department, including provisions for effective control against theft or diversion of dangerous drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist.

....

13. CCR section 1715 states:

(a) The pharmacist-in-charge of each pharmacy as defined under section 4029 or section 4037 of the Business and Professions Code shall complete a self-assessment of the pharmacy's compliance with federal and state pharmacy law. The assessment shall be performed before July 1 of every odd-numbered year. The primary purpose of the self-assessment is to promote compliance through self-examination and education.

(b) In addition to the self-assessment required in subdivision (a) of this section, the pharmacist-in-charge shall complete a self-assessment within 30 days whenever:

- (1) A new pharmacy permit has been issued, or
- (2) There is a change in the pharmacist-in-charge, and he or she becomes the new pharmacist-in-charge of a pharmacy.

(c) The components of this assessment shall be on Form 17M-13 (Rev 10/07) entitled "Community Pharmacy & Hospital Outpatient Pharmacy Self-Assessment (or Form 17M-14 (Rev 10/07) entitled "Hospital Pharmacy Self-Assessment" which are hereby incorporated by reference to evaluate compliance with federal and state laws and regulations.

(d) Each self-assessment shall be kept on file in the pharmacy for three years after it is performed.

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14. CCR section 1793.7 states:

(a) Except as otherwise provided in section 1793.8, any function performed by a pharmacy technician in connection with the dispensing of a prescription, including repackaging from bulk and storage of pharmaceuticals, must be verified and documented in writing by a pharmacist. Except for the preparation of prescriptions for an inpatient of a hospital and for an inmate of a correctional facility, the pharmacist shall indicate verification of the prescription by initialing the prescription label before the medication is provided to the patient.

(b) Pharmacy technicians must work under the direct supervision of a pharmacist and in such a relationship that the supervising pharmacist is fully aware of all activities involved in the preparation and dispensing of medications, including the maintenance of appropriate records.

(c) A pharmacy technician must wear identification clearly identifying him or her as a pharmacy technician.

(d) Any pharmacy employing or using a pharmacy technician shall develop a job description and written policies and procedures adequate to ensure compliance with the provisions of Article 11 of this Chapter, and shall maintain, for at least three years from the time of making, records adequate to establish compliance with these sections and written policies and procedures.

(e) A pharmacist shall be responsible for all activities of pharmacy technicians to ensure that all such activities are performed completely, safely and without risk of harm to patients.

(f) For the preparation of a prescription for an inpatient of a licensed health facility and for a patient of a licensed home health agency, the ratio shall not be less than one pharmacist on duty for a total of two pharmacy technicians on duty. Pursuant to Business and Professions Code section 4115(g)(1), this ratio shall not apply to the preparation of a prescription for an inmate of a correctional facility of the Department of the Youth Authority or the Department of Corrections, or for a person receiving treatment in a facility operated by the State Department of Mental Health, the State Department of Developmental Services, or the Department of Veterans Affairs.

15. Section 125.3 of the Code 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.

DRUGS

16. Hydcodone with acetaminophnen 10/325 tablets; hydcodone with acetaminophnen 10/500 tablets; hydcodone with acetaminophnen 7.5/750 tablets; hydcodone with acetaminophnen 5/500 tablets; hydcodone with acetaminophnen 7.5/500 tablets; and,

1 hydrocodone with acetaminophnen 5/325 tablets are all Schedule III controlled substances as  
2 designated by Health and Safety Code section 11056(e)(4), and are dangerous drugs within the  
3 meaning of Code section 4022, in that under federal law each requires a prescription.

4 FIRST CAUSE FOR DISCIPLINE

5 (Failure to Maintain Pharmacy Security)

6 17. Respondent Gill is subject to disciplinary action under Code section 4301,  
7 subd. (o), in that Respondent Gill, as pharmacist in charge of Dairyland Pharmacy, failed to  
8 maintain the security of Dairyland Pharmacy from theft or diversion of controlled substances in  
9 accordance with CCR section 1714, subd. (d). The circumstances are as follows:

10 18. Between July 24, 2005, and October 8, 2007, Dairyland Pharmacy could  
11 not account for an inventory shortage of 170,400 doses of hydrocodone with acetaminophnen  
12 10/325 tablets, 57,300 hydrocodone with acetaminophnen 10/500 tablets, and 1400 hydrocodone  
13 with acetaminophnen 7.5/750 tablets. Additionally, on an unknown date, pharmacy technician  
14 Sonia Cardosos stole approximately 40 hydrocodone with acetaminophnen 10/325 mg. tablets  
15 from a crate of patient prescription bottles that were to be returned to stock.

16 SECOND CAUSE FOR DISCIPLINE

17 (Failure to Maintain Records)

18 19. Respondent Gill is subject to disciplinary action under Code section 4301,  
19 subd. (o), in that Respondent Gill, as pharmacist in charge of Dairyland Pharmacy, failed to  
20 maintain the records of acquisitions and disposition and the current inventory of Dairyland  
21 Pharmacy in accordance with Code sections 4081, subd. (a), and 4105. The circumstances are as  
22 follows:

23 20. Between July 24, 2005, and October 8, 2007, Dairyland Pharmacy could  
24 not account for an inventory shortage of 170,400 doses of hydrocodone with acetaminophnen  
25 10/325 tablets, 57,300 hydrocodone with acetaminophnen 10/500 tablets, and 1400 hydrocodone  
26 with acetaminophnen 7.5/750 tablets. Additionally, during the same period, Dairyland Pharmacy  
27 had an overage of 2345 hydrocodone with acetaminophnen 5/500 tablets, 174 hydrocodone with  
28 acetaminophnen 7.5/500 tablets, and 109 hydrocodone with acetaminophnen 5/325 tablets.

1 THIRD CAUSE FOR DISCIPLINE

2 (Failure to Sign for Delivery of Controlled Substances)

3 21. Respondent Gill is subject to disciplinary action under Code section 4301,  
4 subds. (j) and (o), in that Respondent Gill, as pharmacist in charge of Dairyland Pharmacy, failed  
5 to sign for the delivery of controlled substances from a wholesaler in accordance with Code  
6 section 4059.5, subd. (a), and Health and Safety Code section 11209, subd. (a). The  
7 circumstances are as follows:

8 22. Between July 1, 2006, and October 8, 2007, a non-pharmacist signed for  
9 35 deliveries of controlled substances from McKesson Drug Company and 44 from Valley  
10 Wholesale Drug, for a total of 79 deliveries of controlled substances.

11 FOURTH CAUSE FOR DISCIPLINE

12 (Failed to have Pharmacy Technician conduct Pharmacy Technician duties)

13 23. Respondent Gill is subject to disciplinary action under Code section 4301,  
14 subd. (o), in that Respondent Gill, as pharmacist in charge of Dairyland Pharmacy, failed to have  
15 a pharmacy technician conduct pharmacy technician duties in accordance with CCR section  
16 1793.7, subd. (e). The circumstances are as follows:

17 24. On or about March 7, 2007, Angela Zaragoza graduated from Valley  
18 College of Modesto, California, and completed a pharmacy technician trainee externship at  
19 Dairyland Pharmacy. From approximately May 1, 2007, through September 17, 2007, excluding  
20 June 2007, Ms. Zaragoza worked full time as a pharmacy technician for approximately 76 shift  
21 at Dairyland Pharmacy without a license.

22 FIFTH CAUSE FOR DISCIPLINE

23 (Failed to Conduct a Pharmacy Self-Assessment)

24 25. Respondent Gill is subject to disciplinary action under Code section 4301,  
25 subd. (o), in that Respondent Gill, as pharmacist in charge of Dairyland Pharmacy, failed to  
26 conduct a pharmacy self-assessment in accordance with CCR section 1715. The circumstances  
27 are as follows:

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1 EIGHTH CAUSE FOR DISCIPLINE

2 (Pharmacy Security)

3 31. Respondent Dairyland is subject to disciplinary action under Code section  
4 4301, subd. (o), in that Respondent Dairyland failed to maintain the security of controlled  
5 substances in accordance with CCR section 1714, subd. (d). The circumstances are as follows:

6 32. Between July 24, 2005, and October 8, 2007, Dairyland Pharmacy could  
7 not account for an inventory shortage of 170,400 doses of hydrocodone with acetaminophen  
8 10/325 tablets, 57,300 hydrocodone with acetaminophen 10/500 tablets, and 1400 hydrocodone  
9 with acetaminophen 7.5/750 tablets. Additionally, on an unknown date, pharmacy technician  
10 Sonia Cardosos stole approximately 40 hydrocodone with acetaminophen 10/325 mg. tablets  
11 from a crate of patient prescription bottles that were to be returned to stock.

12 NINTH CAUSE FOR DISCIPLINE

13 (Failure to Maintain Records)

14 33. Respondent Dairyland is subject to disciplinary action under Code section  
15 4301, subd. (o), in that Respondent Dairyland failed to maintain the records of acquisitions and  
16 disposition and current inventory in accordance with Code sections 4081, subd. (a), and 4105.  
17 The circumstances are as follows:

18 34. Between July 24, 2005, and October 8, 2007, Dairyland Pharmacy could  
19 not account for an inventory shortage of 170,400 doses of hydrocodone with acetaminophen  
20 10/325 tablets, 57,300 hydrocodone with acetaminophen 10/500 tablets, and 1400 hydrocodone  
21 with acetaminophen 7.5/750 tablets. Additionally, during the same period, Dairyland Pharmacy  
22 had an overage of 2345 hydrocodone with acetaminophen 5/500 tablets, 174 hydrocodone with  
23 acetaminophen 7.5/500 tablets, and 109 hydrocodone with acetaminophen 5/325 tablets.

24 TENTH CAUSE FOR DISCIPLINE

25 (Failure to Have Pharmacist Sign for Delivery of Controlled Substances)

26 35. Respondent Dairyland is subject to disciplinary action under Code section  
27 4301, subds. (j) and (o), in that Respondent Dairyland failed to have a pharmacist sign for the  
28 delivery of controlled substances from a wholesaler in accordance with Code section 4059.5,

1 subd. (a), and Health and Safety Code section 11209, subd. (a). The circumstances are as  
2 follows:

3 36. Between July 1, 2006, and October 8, 2007, a non-pharmacist signed for  
4 35 deliveries of controlled substances from McKesson Drug Company and 44 from Valley  
5 Wholesale Drug, for a total of 79 deliveries of controlled substances.

6 ELEVENTH CAUSE FOR DISCIPLINE

7 (Failed to have Pharmacy Technician conduct Pharmacy Technician duties)

8 37. Respondent Dairyland is subject to disciplinary action under Code section  
9 4301, subd. (o), in that Respondent Dairyland failed to have a pharmacy technician conduct  
10 pharmacy technician duties in accordance with CCR section 1793.7, subd. (e). The  
11 circumstances are as follows:

12 38. On or about March 7, 2007, Angela Zaragoza graduated from Valley  
13 College of Modesto, California, and completed a pharmacy technician trainee externship at  
14 Dairyland Pharmacy. From approximately May 1, 2007, through September 17, 2007, excluding  
15 June 2007, Ms. Zaragoza worked full time as a pharmacy technician for approximately 76 shift  
16 at Dairyland Pharmacy without a license.

17 TWELFTH CAUSE FOR DISCIPLINE

18 (Failed to Conduct a Pharmacy Self-Assessment)

19 39. Respondent Dairyland is subject to disciplinary action under Code section  
20 4301, subd. (o), in that Respondent Dairyland failed to conduct a pharmacy self-assessment in  
21 accordance with CCR section 1715. The circumstances are as follows:

22 40. On or about December 8, 2006, when Dairyland Pharmacy was inspected,  
23 the pharmacy was notified that they were required to conduct a self-assessment by July 1 of  
24 every odd numbered year. On or about February 26, 2008, when Dairyland Pharmacy was again  
25 inspected, Dairyland Pharmacy had not done a self-assessment in 2007.

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1 THIRTEENTH CAUSE FOR DISCIPLINE

2 (Failure to Have Policy and Procedure for Theft or Impairment of Licensed Employees)

3 41. Respondent Dairyland is subject to disciplinary action under Code section  
4 4301, subd. (o), in that Respondent Dairyland failed to have policies and procedures in place  
5 regarding the theft by, or impairment of, a licensed employee in accordance with Code section  
6 4104. The circumstances are as follows:

7 42. On or about December 8, 2006, when Dairyland Pharmacy was inspected,  
8 the pharmacy was notified that they were required to have policies and procedures in place  
9 regarding the theft by, or impairment of, a licensed employee. On or about February 26, 2008,  
10 when Dairyland Pharmacy was again inspected, Dairyland Pharmacy did not have the required  
11 policies and procedures in place regarding the theft by, or impairment of, a licensed employee.

12 FOURTEEN CAUSE FOR DISCIPLINE

13 (Failure to Have Pharmacy Technician Job Description and Policy and Procedure)

14 43. Respondent Dairyland is subject to disciplinary action under Code section  
15 4301, subd. (o), in that Respondent Dairyland failed to have a pharmacy technician job  
16 description and policy and procedure in accordance with CCR section 1793.7, subd. (d). The  
17 circumstances are as follows:

18 44. On or about December 8, 2006, when Dairyland Pharmacy was inspected,  
19 the pharmacy was notified that they were required to have a pharmacy technician job description  
20 and policy and procedure. On or about February 26, 2008, when Dairyland Pharmacy was again  
21 inspected, Dairyland Pharmacy did not have the required pharmacy technician job description  
22 and policy and procedure. On or about March 3, 2008, Respondent Gill, as pharmacist in charge  
23 of Dairyland Pharmacy, furnished a non-Dairyland Pharmacy specific pharmacy technician job  
24 description and policy and procedure to the Board.

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PRAYER

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

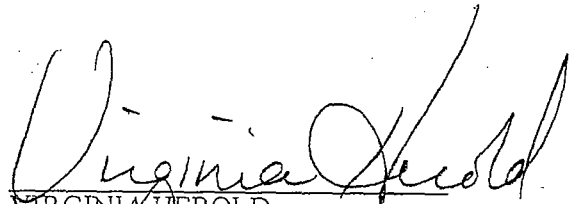
1. Revoking or suspending Original Pharmacy Permit Number PHY 39285 issued to Gurmukh Singh Gill dba Dairyland Pharmacy;

2. Revoking or suspending Original Pharmacist License Number RPH 37061 issued to Gurmukh Singh Gill;

3. Ordering Dairyland Pharmacy and Gurmukh Singh Gill 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; and,

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

DATED: 4/16/09



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

SA2008305012

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