

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

In the Matter of the Accusation Against:

Case No. 3253

**VALLEY WHOLESALE DRUG COMPANY,
INC.**

1401 West Fremont Street
Stockton, CA 95203

Wholesale Permit No. WLS 1410

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 December 31, 2009.

It is so ORDERED on December 1, 2009.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

Kenneth H. Schell

KENNETH H. SCHELL
Board President

1 EDMUND G. BROWN JR.
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 KAREN R. DENVIR
Deputy Attorney General
4 State Bar No. 197268
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5333
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12 **VALLEY WHOLESALE DRUG**
13 **COMPANY, INC.**
1401 West Fremont Street
14 Stockton, CA 95203
Original Wholesale Permit No. WLS 1410,
15 **and**
16 **ROGER PETERS**
1401 West Fremont Street
17 Stockton, CA 95203
Designated Representative No. EXC 15686

18 Respondents

Case No. 3253

OAH No. 2009050940

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

**(RESPONDENT VALLEY WHOLESALE
DRUG COMPANY, INC.)**

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

22 PARTIES

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

27 2. Respondent Valley Wholesale Drug Company, Inc. (Respondent) is represented in
28 this proceeding by attorney Adam B. Brown, whose address is 3848 Carson Street, Suite 206,

1 Torrance, CA 90503. On or about June 5, 1981, the Board of Pharmacy issued Original
2 Wholesale Permit No. WLS 1410 to Valley Wholesale Drug Company, Inc. (Respondent). The
3 Original Wholesale Permit was in full force and effect at all times relevant to the charges brought
4 in Accusation and First Amended Accusation No. 3253 and will expire on June 1, 2009, unless
5 renewed.

6 JURISDICTION

7 3. Accusation No. 3253 was filed before the Board of Pharmacy (Board), Department of
8 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
9 statutorily required documents were properly served on Respondent on April 24, 2009. The First
10 Amended Accusation and all other statutorily required documents were properly served on
11 Respondents on July 31, 2009. Respondent timely filed its Notice of Defense contesting the
12 Accusation. A copy of the First Amended Accusation No. 3253 is attached as exhibit A and
13 incorporated herein by reference.

14 ADVISEMENT AND WAIVERS

15 4. Respondent has carefully read, fully discussed with counsel, and understands the
16 charges and allegations in the First Amended Accusation No. 3253. Respondent has also
17 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
18 Settlement and Disciplinary Order.

19 5. Respondent is fully aware of its legal rights in this matter, including the right to a
20 hearing on the charges and allegations in the First Amended Accusation; the right to be
21 represented by counsel at its own expense; the right to confront and cross-examine the witnesses
22 against them; the right to present evidence and to testify on its own behalf; the right to the
23 issuance of subpoenas to compel the attendance of witnesses and the production of documents;
24 the right to reconsideration and court review of an adverse decision; and all other rights accorded
25 by the California Administrative Procedure Act and other applicable laws.

26 6. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
27 every right set forth above.

28

CULPABILITY

1
2 7. Respondent admits the truth of each and every charge and allegation in the
3 Accusation and First Amended Accusation No. 3253. The admissions made herein are only for
4 the purposes of settlement and may not be used against Respondent in any civil or criminal
5 proceeding.

6 8. Respondent agrees that its Original Wholesale Permit is subject to discipline and they
7 agree to be bound by the Board of Pharmacy (Board)'s imposition of discipline as set forth in the
8 Disciplinary Order below.

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

18 10. The parties understand and agree that facsimile copies of this Stipulated Settlement
19 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
20 effect as the originals.

21 11. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
22 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
23 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
24 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
25 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
26 writing executed by an authorized representative of each of the parties.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Original Wholesale Permit No. WLS 1410 issued to Respondent Valley Wholesale Drug Company, Inc. (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. Obey All Laws

Respondent owner shall obey all state and federal laws and regulations. Respondent owner shall report any of the following occurrences to the Board, in writing, within seventy-two (72) hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state or federal agency which involves Respondent's Original Wholesale Permit or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distributing, billing, or charging for any drug, device or controlled substance.
- any loss of dangerous drugs or controlled substances during transit

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

2. Report to the Board

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

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

7 **3. Interview with the Board**

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

13 **4. Cooperate with Board Staff**

14 Respondent owner shall cooperate with the Board's inspection program and with the
15 Board's monitoring and investigation of Respondent's compliance with the terms and conditions
16 of their probation. Failure to cooperate shall be considered a violation of probation.

17 **5. Reimbursement of Board Costs**

18 As a condition precedent to successful completion of probation, Respondent owner shall
19 pay to the Board its costs of investigation and prosecution in the amount of \$5,872. Respondent
20 shall pay the amount in full by the end of its probation period, and failure to do so shall be
21 considered a violation of probation and will extend the probation period.

22 The filing of bankruptcy by Respondent owner shall not relieve Respondent of their
23 responsibility to reimburse the Board its costs of investigation and prosecution.

24 **6. Probation Monitoring Costs**

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

1 **7. Status of License**

2 Respondent owner shall, at all times while on probation, maintain current licensure with the
3 Board. If Respondent owner submits an application to the Board, and the application is approved,
4 for a change of location, change of permit or change of ownership, the Board shall retain
5 continuing jurisdiction over the license, and the Respondent shall remain on probation as
6 determined by the Board. Failure to maintain current licensure shall be considered a violation of
7 probation.

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

12 **8. License Surrender While on Probation/Suspension**

13 Following the effective date of this decision, should Respondent owner discontinue
14 business, Respondent owner may tender the premises license to the board for surrender. The
15 Board or its designee shall have the discretion whether to grant the request for surrender or take
16 any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of
17 the license, Respondent will no longer be subject to the terms and conditions of probation.
18 Upon acceptance of the surrender, Respondent owner shall relinquish the premises wall and
19 renewal license to the Board within ten (10) days of notification by the board that the surrender is
20 accepted. Respondent owner shall further submit a completed Discontinuance of Business form
21 according to board guidelines and shall notify the Board of the records inventory transfer.

22 Respondent owner may not apply for any new licensure from the Board for three (3) years
23 from the effective date of the surrender. Respondent owner shall meet all requirements applicable
24 to the license sought as of the date the application for that license is submitted to the board.
25 Respondent owner further stipulates that he or she shall reimburse the Board for its costs of
26 investigation and prosecution prior to the acceptance of the surrender.

27 **9. Notice to Employees**

1 Respondent owner shall, upon or before the effective date of this decision, ensure that all
2 employees involved in permit operations are made aware of all the terms and conditions of
3 probation, either by posting a notice of the terms and conditions, circulating such notice, or both.
4 If the notice required by this provision is posted, it shall be posted in a prominent place and shall
5 remain posted throughout the probation period. Respondent owner shall ensure that any
6 employees hired or used after the effective date of this decision are made aware of the terms and
7 conditions of probation by posting a notice, circulating a notice, or both. Additionally,
8 respondent owner shall submit written notification to the Board, within fifteen (15) days of the
9 effective date of this decision, that this term has been satisfied. Failure to submit such
10 notification to the Board shall be considered a violation of probation.

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

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

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

21 **11. Posted Notice of Probation**

22 Respondent owner shall prominently post a probation notice provided by the board in a place
23 conspicuous and readable to the public. The probation notice shall remain posted during the
24 entire period of probation.

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

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

2 **12. Violation of Probation**

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

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

15 **13. Completion of Probation**

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

18 **14. Penalty**

19 Respondent shall pay to the Board of Pharmacy a penalty of \$125,000 by the end of the term of
20 probation. Failure to make complete payment by this deadline will be considered a violation of
21 probation, and will extend the period of probation.

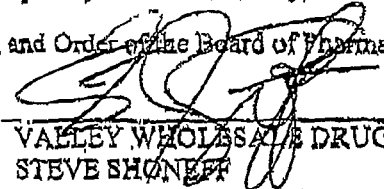
22 The filing of bankruptcy by Respondent owner shall not relieve Respondent of their
23 responsibility to pay the Board this penalty.
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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Adam B. Brown. I am the Chief Executive Officer and President of Valley Wholesale Drug Company, Inc. I am authorized to enter this stipulation on behalf of Valley Wholesale Drug Company, and to bind it to the terms and conditions of this stipulation. I understand the stipulation and the effect it will have on my Original Wholesale 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: 10/2/09

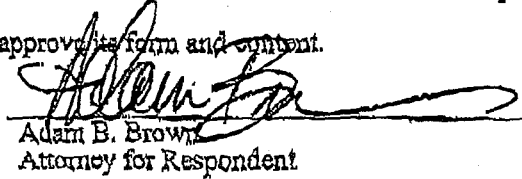


VALLEY WHOLESALE DRUG COMPANY, INC.
STEVE SHONEFF
CHIEF EXECUTIVE OFFICER/PRESIDENT

Respondent

I have read and fully discussed with Respondent Valley Wholesale Drug Company, Inc.; Roger Peters the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 10-2-09


Adam B. Brown
Attorney for Respondent

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

KAREN R. DENVER
Deputy Attorney General
Attorneys for Complainant

1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Adam B. Brown. I am the Chief Executive Officer and President
4 of Valley Wholesale Drug Company, Inc.. I am authorized to enter this stipulation on behalf of
5 Valley Wholesale Drug Company, and to bind it to the terms and conditions of this stipulation. I
6 understand the stipulation and the effect it will have on my Original Wholesale Permit. I enter
7 into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently,
8 and agree to be bound by the Decision and Order of the Board of Pharmacy

9 DATED: _____

10 VALLEY WHOLESALE DRUG COMPANY, INC.
11 STEVE SHONEFF
12 CHIEF EXECUTIVE OFFICER/PRESIDENT

Respondent

13 I have read and fully discussed with Respondent Valley Wholesale Drug Company, Inc. ;
14 Roger Peters the terms and conditions and other matters contained in the above Stipulated
15 Settlement and Disciplinary Order. I approve its form and content.

16 DATED: _____

17 Adam B. Brown
18 Attorney for Respondent

ENDORSEMENT

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

21
22 Dated: October 2, 2009

Respectfully Submitted,

23 EDMUND G. BROWN JR.
24 Attorney General of California
25 ARTHUR D. TAGGART
26 Supervising Deputy Attorney General

Karen R. Denvir

27 KAREN R. DENVIR
28 Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 3253

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 KAREN R. DENVIR, State Bar No. 197268
Deputy Attorney General
4 1300 I Street, Suite 125
P.O. Box 944255
5 Sacramento, CA 94244-2550
Telephone: (916) 324-5333
6 Facsimile: (916) 327-8643

7 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 3253

13 **VALLEY WHOLESALE DRUG**
14 **COMPANY, INC.**
15 1401 West Fremont Street
16 Stockton, CA 95203
17 Original Wholesale Permit No. WLS 1410,

FIRST AMENDED
ACCUSATION

18 and

19 **ROGER PETERS**
20 1401 West Fremont Street
21 Stockton, CA 95203
22 Designated Representative License No. EXC
23 15686

Respondents.

24 Complainant alleges:

PARTIES

25 1. Virginia Herold (Complainant) brings this Accusation solely in her official
26 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
27 This First Amended Accusation supercedes the Accusation filed by Complainant on April 16,
28 2009.

2. On or about June 5, 1981, the Board of Pharmacy issued Original
Wholesale Permit Number WLS 1410 (Permit) to Valley Wholesale Drug Company, Inc.

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

3 3. On or about July 25, 2000, the Board of Pharmacy issued Designated
4 Representative License Number EXC 15686 (License) to Roger Peters (Respondent Peters). The
5 License was in full force and effect at all times relevant to the charges brought herein and will
6 expire on July 1, 2009, 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 board,
14 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

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

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

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:

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(j) The violation of any of the statutes of this state, of any other 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 or by any other state or federal regulatory agency.

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 4160, subdivision (d) of the Code states:

(d) The board shall not issue or renew a wholesaler license until the wholesaler identifies a designated representative-in-charge and notifies the board in writing of the identity and license number of that designated representative. The designated representative-in-charge shall be responsible for the wholesaler's compliance with state and federal laws governing wholesalers. A wholesaler shall identify and notify the board of a new designated representative-in-charge within 30 days of the date that the prior designated representative-in-charge ceases to be the designated representative-in-charge. A pharmacist may be identified as the designated representative-in-charge.

9. 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.

10. Section 118, subdivision (b), of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

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

5 DRUGS

6 12. "Norco", the brand name for hydrocodone with acetaminophen 5/325
7 tablets and 10/325 tablets, is a Schedule III controlled substance as designated by Health and
8 Safety Code section 11056(e)(4), and is a dangerous drug within the meaning of Code section
9 4022, in that under federal law it requires a prescription.

10 13. "Lortab", the brand name for hydrocodone with acetaminophen 7.5/500
11 tablets and 10/500 tablets, is a Schedule III controlled substance as designated by Health and
12 Safety Code section 11056(e)(4), and is a dangerous drug within the meaning of Code section
13 4022, in that under federal law it requires a prescription.

14 14. "Vicodin" and "Vicodin ES", the brand names for hydrocodone with
15 acetaminophen 5/500 tablets and 7.5/750 tablets, is a Schedule III controlled substance as
16 designated by Health and Safety Code section 11056(e)(4), and is a dangerous drug within the
17 meaning of Code section 4022, in that under federal law it requires a prescription.

18 15. Diazepam is a Schedule IV controlled substance as designated by Health
19 and Safety Code section 11057(d)(9), and is a dangerous drug within the meaning of Code
20 section 4022, in that under federal law it requires a prescription.

21 16. Zolpidem is a Schedule IV controlled substance as designated by Health
22 and Safety Code section 11057(d)(32), and is a dangerous drug within the meaning of Code
23 section 4022, in that under federal law it requires a prescription.

24 17. Promethazine w/Codeine is a Schedule V controlled substance as
25 designated by Health and Safety Code section 11058, and is a dangerous drug within the meaning
26 of Code section 4022, in that under federal law it requires a prescription.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Failure to Require Pharmacist to Sign for Delivery of Controlled Substances)**

3 **(Against Valley Wholesale)**

4 18. Respondent Valley Wholesale is subject to disciplinary action under Code
5 section 4301, subdivisions (j) and (o), in that Respondent Valley Wholesale allowed a non-
6 pharmacist to sign for the delivery of controlled substances in violation of Code section 4059.5,
7 subdivision (a), and Health and Safety Code section 11209, subdivision (a). The circumstances
8 are as follows:

9 a. Between July 1, 2006 and August 20, 2007, Respondent Valley Wholesale
10 allowed a non-pharmacist at retail pharmacy Dairyland Pharmacy to sign for and receive a total
11 of 44 deliveries of controlled substances, including Lortab, Norco, Vicodin, and Vicodin ES.

12 b. Between April of 2007 and May of 2008, Respondent Valley Wholesale
13 allowed a non-pharmacist at retail pharmacy Bluepoint Pharmacy to sign for and receive
14 approximately 75 orders of controlled substances and/or dangerous drugs, including Vicodin,
15 Norco, Diazepam, Zolpidem, and Promethazine with Codeine syrup. Additionally, a signature
16 was not obtained on approximately 10 delivery orders of controlled substances and/or dangerous
17 drugs.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Failure to Require Pharmacist to Sign for Delivery of Controlled Substances)**

20 **(Against Respondent Peters)**

21 19. Respondent Peters is subject to disciplinary action under Code section
22 4160, subdivision (d), in that as the designated representative-in-charge he is responsible for
23 Respondent Valley Wholesale's failure to comply with state and federal laws governing
24 wholesalers, in particular, for the failure to comply with Code section 4059.5, subdivision (a),
25 and Health and Safety Code section 11209, subdivision (a), as described above in paragraph 18.

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1 PRAYER

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

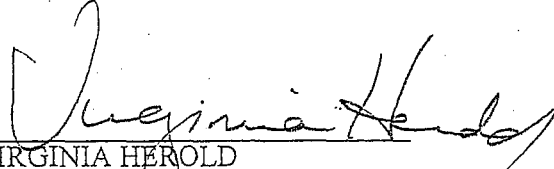
4 A. Revoking or suspending Original Wholesale Permit Number WLS 1410,
5 issued to Valley Wholesale Drug Company, Inc.

6 B. Revoking or suspending Designated Representative License Number EXC
7 15686, issued to Roger Peters.

8 C. Ordering Valley Wholesale Drug Company, Inc. and Roger Peters to pay
9 the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case,
10 pursuant to Business and Professions Code section 125.3;

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

12
13 DATED: 7/27/09

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15 
16 VIRGINIA HEROLD
17 Executive Officer
18 Board of Pharmacy
19 Department of Consumer Affairs
20 State of California
21 Complainant

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