

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

In the Matter of the Accusation Against:

Case No. 3377

TARGET STORE NO. T-228
ANDREW MARK STERNBERG, PIC
6635 Fallbrook Avenue
West Hills, CA 91307
Pharmacy Permit No. PHY 44113,

and

ANDREW MARK STERNBERG
6840 Sunset Ridge Court
West Hills, CA 91307
Pharmacist License No. RPH 32370

Respondent.

DECISION AND ORDER

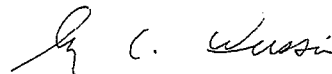
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter as against Respondent Target Store No. T-228 only.

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

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Attorney General of California
2 GREGORY J. SALUTE
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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
12 Against:

Case No. 3377

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

13 **TARGET STORE NO. T-228,**
14 **ANDREW MARK STERNBERG,**
Pharmacist-In-Charge
15 6635 Fallbrook Avenue
West Hills, CA 91307
16 Pharmacy Permit No. PHY 44113,

17 and

18 **ANDREW MARK STERNBERG**
6840 Sunset Ridge Court
19 West Hills, CA 91307
Pharmacist License No. RPH 32370

20 Respondents.

21
22 In the interest of a prompt and speedy settlement of this matter, consistent with the public
23 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
24 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will
25 be submitted to the Board for approval and adoption as the final disposition of the Accusation
26 *solely* with respect to Respondent Target Store No. T-228.
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CONTINGENCY

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

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

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

15. 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 Pharmacy Permit No. PHY 44113 issued to Respondent TARGET STORE NO. T-228 is revoked; however, revocation is stayed and Respondent is placed on probation for five (5) years, subject to the terms and conditions listed below.

1 **Obey All Laws**

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

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

5 X an arrest or issuance of a criminal complaint for violation of any provision of the
6 Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances
7 laws

8
9 X a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
10 criminal complaint, information or indictment

11 X a conviction of any crime

12 X discipline, citation, or other administrative action filed by any state or federal agency
13 which involves respondent's pharmacy license or which is related to the practice of
14 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
15 for any drug, device or controlled substance.
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17 Failure to timely report such occurrence shall be considered a violation of probation.

18 **Report to the Board**

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

2 3. Upon receipt of reasonable prior notice, respondent shall appear in person for
3 interviews with the board or its designee, at such intervals and locations as are determined by the
4 board or its designee. Failure to appear for any scheduled interview without prior notification to
5 board staff, or failure to appear for two (2) or more scheduled interviews with the board or its
6 designee during the period of probation, shall be considered a violation of probation.

7 **Cooperate with Board Staff**

8 4. Respondent shall cooperate with the board's inspection program and with the
9 board's monitoring and investigation of respondent's compliance with the terms and conditions of
10 his probation. Failure to cooperate shall be considered a violation of probation.

11 **Probation Monitoring Costs**

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

17 **Status of License**

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

21 If respondent's license expires or is cancelled by operation of law or otherwise at any time
22 during the period of probation, including any extensions thereof due to tolling or otherwise, upon
23 renewal or reapplication respondent's license shall be subject to all terms and conditions of this
24 probation not previously satisfied.
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1 **License Surrender While on Probation/Suspension**

2 7. Following the effective date of this decision, should respondent be unable to
3 satisfy the terms and conditions of probation, respondent may tender its license to the board for
4 surrender. The board or its designee shall have the discretion whether to grant the request for
5 surrender or take any other action it deems
6 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent
7 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
8 record of discipline and shall become a part of the respondent's license history with the board.
9

10 Upon acceptance of the surrender, respondent shall relinquish its license to the board
11 within ten (10) days of notification by the board that the surrender is accepted. Respondent may
12 not reapply for any license from the board for three (3) years from the effective date of the
13 surrender. Respondent shall meet all requirements applicable to the license sought as of the date
14 the application for that license is submitted to the board, including any outstanding costs.
15

16 **Administrative Penalty**

17 8. Respondent Target Store T-228 shall pay an administrative penalty of One
18 Hundred Thousand Dollars (\$100,000.00). Respondent shall make payment of the assessed
19 administrative penalty as follows. Payments shall be made in eighteen (18) equal installments,
20 beginning with the first payment due on or before the effective date of this Decision and Order,
21 with a payment due every ninety (90) days thereafter. Respondent may pay the full remaining
22 unpaid balance at any time. It shall be Respondent's responsibility to mail or otherwise deliver
23 each payment directly to the Board at the Board's Sacramento address in a timely manner. Failure
24 to make any payment when due shall be considered a violation of probation.
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26 **Report of Controlled Substances—Respondent Target T-228**

27 9. Respondent owner shall submit quarterly reports to the board detailing the total
28 acquisition and disposition of such controlled substances as the board may direct. Respondent

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

7 **Notice to Employees – Respondent Target T-228**

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9 10. Respondent owner shall, upon or before the effective date of this decision, ensure
10 that all employees involved in permit operations are made aware of all the terms and conditions
11 of probation, either by posting a notice of the terms and conditions, circulating such notice, or
12 both. If the notice required by this provision is posted, it shall be posted in a prominent place and
13 shall remain posted throughout the probation period. Respondent owner shall ensure that any
14 employees hired or used after the effective date of this decision are made aware of the terms and
15 conditions of probation by posting a notice, circulating a notice, or both. Additionally,
16 respondent owner shall submit written notification to the board, within fifteen (15) days of the
17 effective date of this decision, that this term has been satisfied. Failure to submit such
18 notification to the board shall be considered a violation of probation.
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20 "Employees" as used in this provision includes all full-time, part-time, volunteer,
21 temporary and relief employees and independent contractors employed or hired at any time
22 during probation.
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24 **Certification of Knowledge of the Law – Respondent Target T-228**

25 11. Respondent shall provide, within thirty (30) days after the effective date of this
26 decision, signed and dated statements from the current pharmacist-in-charge of Target Store T-
27 228 Pharmacy and his/her immediate supervisor, stating under penalty of perjury that said
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1 individuals have read and are familiar with state (California) and federal laws and regulations
2 governing the practice of pharmacy. The failure to timely provide said statements under penalty
3 of perjury shall be considered a violation of probation.

4 **Reimbursement of Board Costs – Respondent Target T-228**

5 12. As a condition precedent to successful completion of probation, respondent shall
6 pay to the board its costs of investigation and prosecution in the amount of \$4,775.00.
7 Respondent shall make quarterly payments.

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

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

14 **Community Service – Respondent Target Store T-228**

15 13. Within sixty (60) days of the effective date of this decision, respondent shall
16 submit to the board or its designee, for prior approval, a community service program in which
17 respondent shall provide free health-care related services on a regular basis to a community or
18 charitable facility or agency for at least One Hundred (100) Hours to be completed within the first
19 three (3) years. Within thirty (30) days of board approval thereof, respondent shall submit
20 documentation to the board demonstrating commencement of the community service program. A
21 record of this notification must be provided to the board upon request. Respondent shall report on
22 progress with the community service program in the quarterly reports. Failure to timely submit,
23 commence, or comply with the program shall be considered a violation of probation.
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1 **Violation of Probation**

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

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

14 **Completion of Probation**

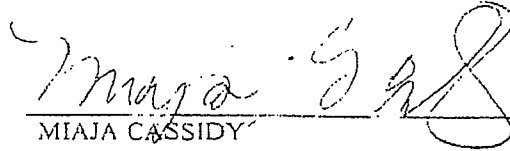
15 15. Upon written notice by the board or its designee indicating successful completion
16 of probation, respondent's license will be fully restored.

17 ACCEPTANCE

18 I Miaja Cassidy, as the Director of Healthcare Compliance for Target Stores, am the
19 authorized representative of Respondent Target Store No. T-228 in relation to its Pharmacy
20 Permit. I have carefully read the above Stipulated Settlement and Disciplinary Order and have
21 fully discussed it with the attorney, J. Susan Graham. I understand the stipulation and the effect it
22 will have on Target Store No. T-228's Pharmacy Permit. On behalf of Respondent, I enter into
23 this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently and
24 with the advise of counsel, and agree that Respondent shall be bound by the Decision and Order
25 of the Board of Pharmacy.
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2 DATED:

3/29/10

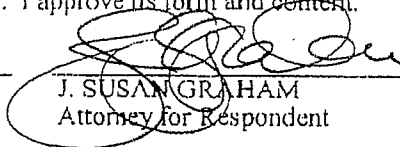


MIAJA CASSIDY
For Respondent
TARGET STORE NO. T-228,

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4
5 I have read and fully discussed with authorized representative of Respondent Target Store
6 No. T-228 Pharmacy the terms and conditions and other matters contained in the above Stipulated
7 Settlement and Disciplinary Order. I approve its form and content.

8 DATED:

10/29/10



J. SUSAN GRAHAM
Attorney for Respondent

11 ENDORSEMENT

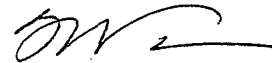
12 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
13 submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs

14
15 Dated:

11-5-10

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
GREGORY J. SALLUTE
Supervising Deputy Attorney General



SUSAN MELTON WILSON
Deputy Attorney General
Attorneys for Complainant

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22 I.A.2009603221
23 Stipulated Settlement 3 (2).docx

Exhibit A

Accusation No. 3377

1 EDMUND G. BROWN JR.
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2 GREGORY J. SALUTE
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Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 3377

11 **TARGET STORE NO. T-228,**
12 **ANDREW MARK STERNBERG,**
Pharmacist-In-Charge
6635 Fallbrook Avenue
13 West Hills, CA 91307
Pharmacy Permit No. PHY 44113,

A C C U S A T I O N

14 **and**

15 **ANDREW MARK STERNBERG**
16 6840 Sunset Ridge Court
West Hills, CA 91307
17 Pharmacist License No. RPH 32370

18 Respondents.

19
20 Complainant alleges:

21 **PARTIES**

- 22 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
23 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 24 2. On or about February 17, 1999, the Board of Pharmacy (Board) issued Pharmacy
25 Permit No. PHY 44113 to Target Store No. T-228, Andrew Mark Sternberg, Pharmacist-In-
26 Charge (Respondent TARGET STORE NO. T-228). Andrew Mark Sternberg is and has been the
27 Pharmacist-In-Charge since July 21, 2001. The Pharmacy Permit was in full force and effect at
28 all times relevant to the charges brought herein and will expire on June 1, 2010, unless renewed.

1 the pharmacist has first interviewed the patient to determine the authenticity of the prescription.

2 “(c) The adoption, amendment, or repeal by the board of these or any other board rules or
3 regulations shall be in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1
4 of Division 3 of Title 2 of the Government Code.”

5 7. Section 4059.5, subdivision (a), states:

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

10 8. Section 4081 states:

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

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

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

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1 9. Section 4105 states:

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

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

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

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

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

19 (2) A waiver granted pursuant to this subdivision shall not affect the board's authority
20 under this section or any other provision of this chapter."

21 10. Section 4115, subdivision (h), states that "[t]he pharmacist on duty shall be directly
22 responsible for the conduct of a pharmacy technician supervised by that pharmacist.

23 11. Section 4300 states, in pertinent part, that "[e]very license issued may be suspended
24 or revoked."

25 12. Section 4301 states, in pertinent part:

26 "The board shall take action against any holder of a license who is guilty of unprofessional
27 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
28 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, or any other state, or of the United States regulating controlled substances and dangerous drugs.

....

"(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. . . ."

REGULATORY PROVISIONS

13. California Code of Regulations, title 16, section 1714 states, in pertinent part:

....

"(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."

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

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

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

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1 COST RECOVERY

2 15. Section 125.3 provides that the Board may request the administrative law judge to
3 direct a licensee found to have committed a violation or violations of the licensing act to pay a
4 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

5 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

6 16. Norco - is the brand name for a pain medication combining narcotic Hydrocodone
7 with non-narcotic acetaminophen¹ and is classified as a Schedule III narcotic substance pursuant
8 to Health and Safety Code section 115056 (e)(4) and a dangerous drug pursuant to Business and
9 Professions Code section 4022.

10 SUMMARY OF FACTS

11 17. The following facts are common to all charges of the Accusation:

12 a. On or about September 5, 2008, the Board received a "Report of Theft or Loss
13 of Controlled Substances" from Respondents in which they reported significant losses of the drug
14 Norco, attributed to theft by former employee Imelda Hurtado, a pharmacy technician (license no.
15 TCH 50509).

16 b. On or about August 13, 2008, Hurtado was detained while leaving Respondent
17 TARGET STORE NO. T-228 with 6 bottles of Norco concealed in her purse. At or about that
18 time, Hurtado admitted that on multiple occasions between September 2006 and August, 2008,
19 she made telephonic orders to Respondents' regular supplier/wholesaler (using the pharmacy's
20 account number) to order bottles of Norco², arranging for delivery of the unauthorized orders on
21 days when she was working.

22 c. On at least three instances (October 11, 2006; December 18, 2006, and
23 November 2, 2007) Hurtado personally signed for the delivery from the supplier. Apparently, she
24 more typically recovered the Norco post-delivery, while the shipment was being unpacked. A
25 Target investigator observing Hurtado on two separate instances in July 2008, watched her locate
26 then remove multiple bottles of Norco from a post-delivery shipment without interference from

27 ¹ Acetaminophen is an over-the-counter analgesic and is not a dangerous drug.

28 ² Bottles of Norco ordered by Hurtado contained 500 tablets (strength: 10mg/325mg)

1 other pharmacy staff.

2 d. During the subject time period, Norco was rarely dispensed by Respondent
3 TARGET STORE NO. T-228, and not generally kept in stock.

4 e. Hurtado destroyed or otherwise disposed of purchase invoices to conceal losses
5 of controlled substances through theft. That invoices were missing was not discovered for almost
6 two years.

7 f. Commencing on September 5, 2008, a selected drug audit was performed by
8 Board inspectors. The audit period was from September 1, 2006 and August 31, 2008. The audit
9 revealed that 216,630 tablets of Norco had been ordered and received but were not in stock and
10 unaccounted for:

11

12 DRUG	9/1/2006 INVENTORY AMOUNT	PURCHASED AMOUNT	DISPENSED AMOUNT	8/31/2008 INVENTORY AMOUNT	AMOUNT SHORT
13 Norco	130	216,500	0	0	216,630

14

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Failure to Maintain Complete and Accurate Records)**

17 18. Respondents TARGET STORE NO. T-228 and ANDREW MARK STERNBERG are
18 subject to disciplinary action under section 4300 for unprofessional conduct as defined in section
19 4301, subdivisions (j) and (o), in conjunction with sections 4005, 4081 and 4105, and California
20 Code of Regulations, title 16, section 1718 for failure to maintain a complete and accurate record
21 for all controlled substances/dangerous drugs received, sold, or otherwise disposed of by them.
22 As described in paragraph 17, above, Respondents were unable to account for 216,630 doses of
23 Norco, a controlled substance and dangerous drug, per a selected drug audit performed by Board
24 inspectors. The audit period was from September 1, 2006 to August 31, 2008. The audit revealed
25 that 216,630 tablets of Norco had been ordered and received but were not in stock and not
26 accounted for.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Failure to Maintain Complete Acquisition/Disposition Records)

3 19. Respondents TARGET STORE NO. T-228 and ANDREW MARK STERNBERG
4 are subject to disciplinary action under section 4300 for unprofessional conduct as defined in
5 section 4301, subdivisions (j) and (o), in conjunction with sections 4081, subdivision (a), and
6 4105 for failure to maintain all records of acquisition and disposition for three (3) years from date
7 of making and to keep a current inventory of dangerous drugs. Respondents' employee stole
8 and/or destroyed purchase invoices to conceal losses of controlled substances through theft.
9 Neither the missing invoices, nor the large volume of controlled substances ordered without
10 authorization by Hurtado and delivered to the pharmacy, were discovered by Respondents for
11 almost two years, as described in paragraph 17, above.

12 THIRD CAUSE FOR DISCIPLINE

13 (Allowing a Non-Pharmacist to Order and Receive Controlled Substances)

14 20. Respondents TARGET STORE NO. T-228 and ANDREW MARK STERNBERG are
15 subject to disciplinary action under section 4300 for unprofessional conduct as defined in section
16 4301, subdivision (o), in conjunction with section 4059.5, subdivision (a), for allowing a non
17 pharmacist, pharmacy technician Imelda Hurtdo, to order and sign for the delivery (on October
18 11, 2006; December 18, 2006, and November 2, 2007) of controlled substances and dangerous
19 drugs, as described in paragraph 17 above.

20 FOURTH CAUSE FOR DISCIPLINE

21 (Failure to Properly Supervise Pharmacy Staff)

22 21. Respondents TARGET STORE NO. T-228 and ANDREW MARK STERNBERG are
23 subject to disciplinary action under section 4300 for unprofessional conduct as defined in section
24 4301, subdivision (o), in conjunction with section 4115, subdivision (h), for failing to properly
25 supervise pharmacy technician Imelda Hurtado's activities while working in the pharmacy,
26 allowing her to steal Norco, a controlled substance and dangerous drug. Complainant refers to
27 and by this reference incorporates allegations of paragraphs 17 – 20 above as though fully set
28 forth.

1 FIFTH CAUSE FOR DISCIPLINE

2 (Failure to Maintain Security of Pharmacy)

3 22. Respondents TARGET STORE NO. T-228 and ANDREW MARK STERNBERG are
4 subject to disciplinary action under section 4300 for unprofessional conduct as defined in section
5 4301, subdivision (o), in conjunction with section 4005 and California Code of Regulations, title
6 16, section 1714, subdivision (b), for failing to maintain its facilities, space, fixtures, and
7 equipment so that drugs are safely and properly prepared, maintained, secured. Respondents
8 failed to secure and maintain its facilities from diversion and theft. Complainant refers to and by
9 this reference incorporates allegations of paragraphs 17 – 21 above as though fully set forth.

10 SIXTH CAUSE FOR DISCIPLINE

11 (Failure to Maintain Security of Controlled Substances)

12 23. Respondent ANDREW MARK STERNBERG is subject to disciplinary action under
13 section 4300 for unprofessional conduct as defined in section 4301, subdivisions (o), in
14 conjunction with section 4005 and California Code of Regulations, title 16, section 1714,
15 subdivision (d), for failing to secure the prescription department and provide effective controls to
16 prevent theft or diversion of 216,630 doses of Norco, a controlled substance and dangerous drug,
17 between September 1, 2006 and August 31, 2008, and maintain records for such drugs.
18 Complainant refers to and by this reference incorporates allegations of paragraphs 17 – 22
19 above as though fully set forth.

20 PRAYER

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

- 23 1. Revoking or suspending Pharmacy Permit No. PHY 44113, issued to Target Store
24 No. T-228;
- 25 2. Revoking or suspending Pharmacist License No. RPH 32370, issued to Andrew Mark
26 Sternberg;

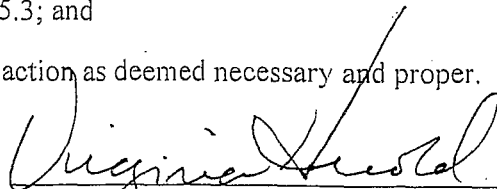
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1 3. Ordering Target Store No. T-228 and Andrew Mark Sternberg to pay the Board of
2 Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to
3 Business and Professions Code section 125.3; and

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

5
6 DATED: 10/29/09



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

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