

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

In the Matter of the Accusation Against:

WESTPARK PHARMACY
AVAKIAN INC., OWNER
22110 Roscoe Blvd. No. 105
Canoga Park, CA 91304
Pharmacy Permit No. PHY 45155

LEON AVAKIAN
1026 Bramford Drive
Glendale, CA 91207
Pharmacist License No. RPH 48020

ELOY RUBIO
16352 Devonshire Street
Granda Hills, CA 91344
Pharmacy Technician License No. TCH 25981

Respondents.

Case No. 3625

OAH No. L-2011060812

**STIPULATED SURRENDER OF
LICENSE AND ORDER:
WESTPARK PHARMACY ONLY**

DECISION AND ORDER

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

This decision shall become effective on May 8, 2013.

It is so ORDERED on April 8, 2013.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 SUSAN MELTON WILSON
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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 Against:
12 **WESTPARK PHARMACY**
13 AVAKIAN INC., OWNER
Pharmacy Permit No. PHY 45155
14 **LEON AVAKIAN**
15 Pharmacist License No. RPH 48020
16 **ELOY RUBIO**
17 Pharmacy Technician License No. TCH 25981
18 Respondent.

Case No. 3625
OAH No. 2011060812

**STIPULATED SURRENDER OF
LICENSE AND ORDER :
WESTPARK PHARMACY ONLY**

19 In the interest of a prompt and speedy settlement of this matter, consistent with the public
20 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
21 the parties hereby agree to the following Stipulated Surrender of License and Order which will be
22 submitted to the Board for approval and adoption as the final disposition of the Accusation solely
23 with respect to Respondent WESTPARK PHARMACY.
24

25 PARTIES

26 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
27 She brought this action solely in her official capacity and is represented in this matter by Kamala
28 / / /

1 D. Harris, Attorney General of the State of California, by Susan Melton Wilson, Deputy Attorney
2 General.

3 2. On or about August 8, 1995, the Board of Pharmacy issued Original Pharmacist
4 License Number RPH 48020 to Respondent Leon Avakian. The Pharmacist License was in full
5 force and effect at all times relevant to the charges brought herein and will expire on September
6 30, 2014, unless renewed.

7
8 3. On or about March 2, 2001, the Board of Pharmacy issued Pharmacy Permit Number
9 PHY 45155 to Avakian Inc., a corporation, to do business as Westpark Pharmacy (Respondent
10 Westpark). At all times since issuance of the license, Respondent Leon Avakian is listed in
11 Board records as both president of Avakian Inc. as well as the pharmacist-in-charge of Westpark
12 Pharmacy. The Pharmacy Permit was in full force and effect at all times relevant to the charges
13 brought herein and will expire on March 1, 2013, unless renewed.

14 4. Respondent Leon Avakian, as president and an owner of Avakian Inc, is the
15 authorized representative of the corporate license holder, doing business as Westpark Pharmacy.

16
17 5. Respondent Westpark Pharmacy and Leon Avakian, as the authorized representative
18 of the corporate license holder, are represented in this proceeding by Brown White & Newhouse
19 LLP, by attorney Alfredo X. Jarrin, whose address is: 333 South Hope Street, 40th Floor, Los
20 Angeles, CA 90071 and attorney Joseph P. Furman, Furman Healthcare Law, 9701 Wilshire
21 Boulevard, 10th Floor, Beverly Hills, CA 90212.

22
23 JURISDICTION

24 6. Accusation No. 3625 was filed before the Board of Pharmacy (Board), Department of
25 Consumer Affairs, and is currently pending against Respondent Westpark. The Accusation and all
26 other statutorily required documents were properly served on Respondent on March 3, 2011.
27 Respondent timely filed its Notice of Defense contesting the Accusation. A copy of Accusation
28 No. 3625 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

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7. Respondent Westpark, by it authorized representative, has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 3625. Respondent has also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

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

9. Respondent Westpark, by its authorized representative, voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

10. Respondent Westpark, by its authorized representative, understands and agrees that the charges and allegations of Accusation No. 3625, if proven at hearing, constitute cause for imposing discipline upon its Pharmacist Permit.

11. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent Westpark agrees that, at hearing, Complainant could establish a factual basis for the charges in the Accusation, and hereby surrenders Pharmacy Permit No. PHY 45155 for the Board's formal acceptance

12. Respondent Westpark, by its authorized representative, understands that by signing this stipulation, Westpark Pharmacy enables the Board to issue an order accepting the surrender of its Pharmacy Permit without further process.

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RESERVATION

1
2 13. The admissions made by Respondent herein are only for the purposes of this
3 proceeding, or any other proceedings in which the Board of Pharmacy or other regulatory
4 licensing agency is involved, and shall not be admissible in any other criminal or civil
5 proceeding.

CONTINGENCY

6
7 14. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
8 Westpark Pharmacy, by its authorized representative, understands and agrees that counsel for
9 Complainant and the staff of the Board of Pharmacy may communicate directly with the Board
10 regarding this stipulation and surrender, without notice to or participation by Respondent or its
11 counsel. By signing the stipulation, Respondent understands and agrees that it may not withdraw
12 its agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon
13 it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender
14 and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be
15 inadmissible in any legal action between the parties, and the Board shall not be disqualified from
16 further action by having considered this matter.

17 15. The parties understand and agree that facsimile copies of this Stipulated Surrender of
18 License and Order, including facsimile signatures thereto, shall have the same force and effect as
19 the originals.

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

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

28 // /

ORDER

1
2 IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 45155 issued to Avakian
3 Inc., a corporation, to do business as WESTPARK PHARMACY is surrendered and accepted by
4 the Board of Pharmacy.

5
6 1. The surrender of Respondent Westpark's Pharmacy Permit shall constitute the
7 imposition of discipline against Respondent Westpark. This stipulation constitutes a record of the
8 discipline and shall become a part of Respondent Westpark's license history with the Board of
9 Pharmacy.

10 2. Respondent Westpark shall lose all rights and privileges as a pharmacy in California,
11 THIRTY (30) DAYS AFTER the effective date of the Board's Decision and Order. This
12 additional time is allowed to complete anticipated sale of the pharmacy facility, and the effective
13 date shall not be further extended.

14
15 3. Respondent Westpark shall cause to be delivered to the Board all indicia of licensure,
16 including wall certificates, on or before the effective date of the Decision and Order.

17
18 4. If Avakian Inc., and/or Leon Avakian or owner(s) of Avakian Inc. ever apply(s) for
19 licensure or petition for reinstatement in the State of California, the Board shall treat any such
20 application as a new application for licensure. Accordingly, Avakian Inc., and/or Leon Avakian
21 or owner(s) of Avakian Inc. must comply with all the laws, regulations and procedures for
22 licensure in effect at the time the application or petition is filed, and all of the charges and
23 allegations against Respondent Westpark contained in Accusation No. 3625 shall be deemed to be
24 true, correct and admitted when the Board determines whether to grant or deny the application or
25 petition.

26 5. Avakian Inc., and/or Leon Avakian or owner(s) of Avakian Inc. shall be jointly and
27 severally liable to repay the agency its costs of investigation and enforcement in this Accusation
28 matter in the aggregate amount of \$15,000.00 (Fifteen Thousand Dollars) prior to issuance of any
new or reinstated license.

1 6. If Avakian Inc., and/or Leon Avakian or owner(s) of Avakian Inc. should ever apply
2 or reapply for a new license or certification, or petition for reinstatement of a license, by the
3 Board or any other health care licensing agency in the State of California, all of the charges and
4 allegations against Respondent Westpark contained in Accusation, No. 3625 shall be deemed to
5 be true, correct, and admitted for the purpose of any Statement of Issues or any other proceeding
6 seeking to deny or restrict licensure.

7 ACCEPTANCE

8 I have carefully read the above Stipulated Surrender of License and Order and have fully
9 discussed it with attorneys Alfredo X. Jarrin and Joseph Furman. I am the current president and
10 duly authorized representative of Avakian, Inc., the corporation which holds Pharmacy Permit
11 No. PHY45155. I understand the stipulation and the effect it will have on Pharmacy Permit No.
12 PHY45155, held by Avakian Inc. On behalf of the corporate license holder, I enter into this
13 Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to
14 be bound by the Decision and Order of the Board of Pharmacy.

15
16 DATED: 1/15/13 [Signature]
17 LEON AVAKIAN
18 Authorized Representative for
19 AVAKIAN, INC. d.b.a. WESTPARK PHARMACY

20 I have read and fully discussed with Leon Avakian, as authorized representative of
21 Respondent Westpark Pharmacy, the terms and conditions and other matters contained in the
22 above Stipulated Surrender of License and Order. I approve its form and content.

23 DATED: 1/18/13 [Signature]
24 ALFREDO X. JARRIN
25 Attorney for Respondent

26 I have read and fully discussed with Leon Avakian, as authorized representative of
27 Respondent Westpark Pharmacy, the terms and conditions and other matters contained in the
28 above Stipulated Surrender of License and Order. I approve its form and content.

DATED: JAN. 18, 2013 [Signature]
JOSEPH B. FURMAN
Attorney for Respondent

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ENDORSEMENT

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

Dated: 1-18-13

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General



SUSAN MELTON WILSON
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 3625

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
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7 Attorneys for Complainant

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19 **ELOY RUBIO**
20 16352 Devonshire Street
21 Granada Hills, CA 91344
22 Pharmacy Technician License No. TCH 25981
23 Respondents.

Case No. 3625
ACCUSATION

25 Complainant alleges:
26 **PARTIES**

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

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

3 "(c) The board may refuse a license to any applicant guilty of unprofessional conduct.
4 The board may, in its sole discretion, issue a probationary license to any applicant for a license
5 who is guilty of unprofessional conduct and who has met all other requirements for licensure.
6 The board may issue the license subject to any terms or conditions not contrary to public policy,
7 including, but not limited to, the following:

8 "(1) Medical or psychiatric evaluation.

9 "(2) Continuing medical or psychiatric treatment.

10 "(3) Restriction of type or circumstances of practice.

11 "(4) Continuing participation in a board-approved rehabilitation program.

12 "(5) Abstention from the use of alcohol or drugs.

13 "(6) Random fluid testing for alcohol or drugs.

14 "(7) Compliance with laws and regulations governing the practice of pharmacy.

15 "(d) The board may initiate disciplinary proceedings to revoke or suspend any
16 probationary certificate of licensure for any violation of the terms and conditions of probation.
17 Upon satisfactory completion of probation, the board shall convert the probationary certificate to
18 a regular certificate, free of conditions.

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

24 7. Section 4301 of the Code states:

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

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

4 ...

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

7 ...

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

12 ...

13 8. Section 4039 of the Code states in pertinent part:

14 "Physicians," ... are persons authorized by a currently valid and unrevoked license to
15 practice their respective professions in this state. "Physician" means and includes any person
16 holding a valid and unrevoked physician's and surgeon's certificate or certificate to practice
17 medicine and surgery, issued by the Medical Board of California or the Osteopathic Medical
18 Board of California ..."

19 9. Section 4059 of the Code, at subdivision (a) states:

20 "(a) A person may not furnish any dangerous drug, except upon the prescription of a
21 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor.

22 10. Section 4060 of the Code states in pertinent part:

23 "No person shall possess any controlled substance, except that furnished to a person upon
24 the prescription of a physician (or other authorized prescriber) ..."

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

1 12. Section 118, subdivision (b), of the Code provides that the suspension / expiration
2 / surrender / cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction
3 to proceed with a disciplinary action during the period within which the license may be renewed,
4 restored, reissued or reinstated.

5 13. Health and Safety Code section 11150 provides that no person other than a physician,
6 dentist, podiatrist, or veterinarian, or authorized prescriber shall write or issue a prescription.”

7 14. Health and Safety Code section 11158 provides as subsection “a” that:

8 “(a) Except as provided in this section, no controlled substance classified in Schedule II
9 shall be dispensed without a prescription meeting the requirements of this chapter. Except as
10 provided in Section 11159 or when dispensed directly to an ultimate user by a practitioner, other
11 than a pharmacist or pharmacy, no controlled substance classified in Schedule III, IV, or V may
12 be dispensed without a prescription meeting the requirements of this chapter.”

13 15. Health and Safety Code section 11153, at subdivision (a) states:

14 “(a) A prescription for a controlled substance shall only be issued for a legitimate medical
15 purpose by an individual practitioner acting in the usual course of his or her professional practice.
16 The responsibility for the proper prescribing and dispensing of controlled substances is upon the
17 prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the
18 prescription. Except as authorized by this division, the following are not legal prescriptions: (1)
19 an order purporting to be a prescription which is issued not in the usual course of professional
20 treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of
21 controlled substances, which is issued not in the course of professional treatment or as part of an
22 authorized narcotic treatment program, for the purpose of providing the user with controlled
23 substances, sufficient to keep him or her comfortable by maintaining customary use.”

24 16. Title 16 of the California Code of Regulations, at section 1761 states:

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

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

4 **DRUG CLASSIFICATIONS**

5 17. Drug Classifications

6

7 BRAND NAME	8 GENERIC NAME	9 DANGEROUS DRUG PER B&P 4022	10 CONTROLLED SUBSTANCE PER H&S	11 INDICATIONS FOR USE
12 Oxycontin	Oxycodone	Yes	Schedule II per HSC 11055(b)(1)(N)	Moderate to severe pain
13 Vicodin, Norco	Hydrocodone/Apap	Yes	Schedule III per HSC 11056(e)(4)	Moderate to severe pain
14 Dilaudid	Hydromorphone	Yes	Schedule II per HSC 11055(b)(1)(K)	Moderate to severe pain

15 **SUMMARY OF FACTS**

16 18. The following facts are common to all of the causes for discipline which follow:

17 a. At all times relevant herein Respondent Leon Avakian was pharmacist-in-charge of
18 Respondent Westpark Pharmacy.

19 b. Between approximately May 2004 and October 19, 2005 Respondent Eloy “Jose”
20 Rubio was employed as a licensed pharmacy technician at Respondent Westpark Pharmacy.

21 c. Between approximately May 2004 and March 10, 2005, Dr. Robert Zoltan Braun
22 owned and operated a medical practice located at 23101 Sherman Place, Suite 201 in West Hills,
23 CA.

24 d. Between approximately May 2004 and October 19, 2005, Dr. Braun and Respondent
25 Rubio conspired to unlawfully distribute and dispense scheduled controlled substances, including
26 Oxycontin, Methadone, Morphine, Hydromorphone, Hydrocodone, Lorazepam, Vicodin and
27 Norco by the following methodology:

28 (1) Dr. Braun would issue prescriptions or renew prescriptions without
legitimate medical purpose to consumers wishing to acquire a controlled substance.

(2) Dr. Braun would suggest that the prescription be filled at Respondent

1 Westlake Pharmacy, where Respondent Rubio worked.

2 (3) Respondent Rubio would then fill or cause to be filled Dr. Braun's
3 prescriptions.

4 e. Effective on or about March 10, 2005, Dr. Braun's license to practice medicine and
5 legitimately prescribe controlled substances in the state of California was revoked by the
6 Medical Board of California due to sexual misconduct with a patient.

7 f. Dr. Braun nevertheless continued to write and renew prescriptions for controlled
8 substances, backdating the prescriptions to dates before the effective date of his revocation.

9 g. Between March 10, 2005 (the effective date of Dr. Braun's license revocation) and
10 August 18, 2005, Respondent Westpark filled or caused to be filled a total of 157 prescriptions
11 for controlled substances issued by Dr. Braun (120 prescriptions for controlled substances; and 43
12 prescriptions for legend pharmaceuticals). All 101 prescriptions were dispensed by Respondent
13 Leon Avakian.

14 **Undercover Officer Obtained and Filled Prescriptions**

15 h. On June 10, 2005 and July 6, 2005 – months after revocation of his license - Dr.
16 Braun wrote prescriptions for controlled substances for an undercover law enforcement officer.
17 Dr. Braun also referred the officer to Westpark Pharmacy.

18 i. The undercover officer had both prescriptions filled at Westpark as follows:

19 (1) On June 10, 2005, Rubio dispensed a prescription written by Dr. Braun for 90
20 tablets of Lorazepam to the undercover officer. Prior to having the prescription filled, the
21 officer had confirmed that Rubio knew Dr. Braun was no longer licensed. The undercover
22 officer then traveled to Respondent Westpark Pharmacy and presented the prescription
23 (written by Braun) to Respondent Rubio, who accepted \$40.00 cash, and dispensed or had
24 dispensed 90 tablets of Loarazepam to the undercover officer.

25 (2) On July 6, 2005, Respondent Avakian filled 2 prescriptions (Rx# 25990 and
26 Rx#259995), written by Dr. Braun, for the undercover officer, dispensing a total of 240
27 tablets of Hydrocodone, at the cost of \$200.00. The prescriptions were in two different
28 names (Patrick C. and Patrick N.), and were for 120 tablets of Hydrocodone each. Upon

1 review of the label affixed to the two containers provided by Westpark, and his receipt for
2 the purchase, the officer noted that the prescribing doctor was shown as a "Dr. Shaet."

3 **Statement of Respondent Rubio**

4 j. In a statement made on or about October 19, 2005, Respondent Rubio stated that, in
5 addition to the prescriptions being picked up by Dr. Braun's patients at Westlake, he made
6 numerous deliveries to Dr. Braun's office. Rubio delivered drugs to Braun approximately 4 times
7 per month. Approximately twice per month, Rubio delivered a box of 20 bottles (100 "80 mg"
8 tablets per bottle) of Oxycontin. The bottles did not have pharmacy labels. Approximately twice
9 per month he delivered bags containing ten bottles of Oxycontin to Dr. Braun as well. The ten
10 bottle deliveries usually had pharmacy labels on them. Braun was the only doctor he made
11 deliveries to.

12 k. According to the October 2005 statement, Rubio collected money from Dr. Braun
13 approximately 4 times a month, twice a month he collected 7 - 8 thousand dollars and twice a
14 month he collected more than ten thousand dollars. He only collected cash from Dr. Braun. On
15 one occasion Rubio collected more than \$40,000.00.

16 l. Rubio stated no drugs could leave the pharmacy without Avakian's knowledge.

17 m. Rubio stated that Respondent Avakian knew that Dr. Braun lost his license in March
18 2005.

19 n. Rubio stated that Respondent Avakian said it was "no problem" to fill pre-dated
20 prescriptions of Dr. Braun for controlled substances because the dates of the prescriptions were
21 from before Dr. Braun lost his license.

22 o. Rubio questioned Respondent Avakian about the legitimacy of some of Dr. Braun's
23 prescriptions. Avakian told Rubio if Braun wrote a prescription, it was to be filled. As long as a
24 prescription came from a doctor it was to be considered legitimate.

25 p. On or about March 7, 2007, in United States District Court (Central), Dr. Braun pled
26 guilty to conspiracy to unlawfully distribute controlled substances, a violation of 21 United States
27 Code section 846, 841(a)(1) and was sentenced to seventy (70) months in prison, and to pay fines
28 of approximately \$17,600.

1 q. An indictment for involvement of Respondent Rubio in the scheme was filed on
 2 March 3, 2008 United States District Court (Central) criminal case no. CR 05-1075-ABC.
 3 However, pursuant to a plea agreement, prosecution of the matter was delayed for 6 months, and
 4 Respondent Rubio was permitted to enter a drug treatment program. On proof of his successful
 5 completion of the program, the indictment was dismissed on July 8, 2008.

6 **FIRST CAUSE FOR DISCIPLINE**

7 (Filing of Erroneous Prescriptions)

8 19. Respondents WESTPARK PHARMACY and LEON AVAKIAN are subject to
 9 disciplinary action under Code section 4301, subdivisions (j) and (o) in conjunction with Title 16,
 10 California Code of Regulations section 1761, subdivisions (a) and (b), in that Respondents
 11 dispensed a total of 157 prescriptions written by Dr. Braun (120 prescriptions for controlled
 12 substances; and 43 prescriptions for legend pharmaceuticals) after Dr. Braun's license was
 13 revoked on March 10, 2005, despite significant irregularities, and despite knowing or having
 14 objective reason to know that said prescription(s) were not issued for a legitimate medical
 15 purpose, for patients as follows:

	DATE	RX NO.	PATIENT	DRUG
16	1. 3/22/2005	247692		HC 10/500
17	2. 3/22/2005	247687		Dextro
	3. 3/22/2005	247723		Duragesic
18	4. 3/25/2005	245892		HC 10/500
	5. 3/25/2005	245892		Soma
19	6. 3/30/2005	248742		Lorazepam
	7. 4/7/2005	226998		Ambien
20	8. 4/7/2005	249707		Alprazolam
	9. 4/11/2005	250127		Ambien
21	10. 4/11/2005	250128		HC10/325
	11. 4/22/2005	250129		Diazepam
22	12. 4/22/2005	226200		HC 10/325
	13. 4/11/2005	229270		HC 10/325
23	14. 4/13/2005	250519		HC 10/325
	15. 4/14/2005	231123		HC 10/325
24	16. 4/15/2005	245892		HC 10/325
	17. 4/18/2005	246339		HC 10/650
25	18. 4/22/2005	228836		Diethylprop
	19. 4/22/2005	231201		Ambien
26	20. 4/26/2005	248324		Alprazolam
	21. 4/28/2005	227838		HC 10/325
27	22. 4/28/2005	249322		HC 10/325
	23. 5/3/2005	228851		Lorazepam
28	24. 5/4/2005	253360		HC 10/325

1	25. 5/4/2005	232798	Diazepam
	26. 5/5/2005	233768	HC 10/325
	27. 5/5/2005	253581	HC 10/325
2	28. 5/6/2005	253758	Vic ES
	29. 5/9/2005	253792	Lorazepam
3	30. 5/11/2005	229186	Alprasolam
	31. 5/16/2005	233406	HC 10/325
4	32. 5/17/2005	254736	Prometh C
	33. 5/18/2005	235167	HC/ibu
5	34. 5/20/2005	230520	Alprazolam
	35. 5/24/2005	233796	HC 10/325
6	36. 5/24/2005	249322	HC 10/325
	37. 5/26/2005	255814	HC 10/325
7	38. 5/31/2005	256240	HC 10/325
	39. 5/31/2005	248794	HC 10/325
8	40. 6/2/2005	231773	HC 10/325
	41. 6/2/2005	233192	Diazepam
9	42. 6/2/2005	233193	Ambien
	43. 6/2/2005	233197	HC 10/325
10	44. 6/2/2005	233465	HC 10/325
	45. 6/2/2005	233993	HC 10/325
11	46. 6/2/2005	249707	Alprazolam
	47. 6/2/2005	235429	Triazolam
12	48. 6/3/2005	232809	Clonazepam
	49. 6/3/2005	233406	HC 10/325
13	50. 6/3/2005	234080	HC 10/325
	51. 6/3/2005	249908	Viagra
14	52. 6/9/2005	246152	Hydro/ibu
	53. 6/13/2005	246339	HC 10/659
15	54. 6/13/2005	257570	Alprazolam
	55. 6/13/2005	233981	HC 10/325
16	56. 6/15/2005	233768	HC 10/325
	57. 6/20/2005	258298	HC 10/325
17	58. 6/30/2005	256589	HC 10/325
	59. 7/7/2005	260099	HC 10/660
18	60. 7/8/2005	250180	Alprazolam
	61. 8/12/2005	264361	Diazepam
19	62. 8/12/2005	264363	HC/ibu
	63. 03/09/05	248365	Wellbutrin
20	64. 03/10/05	246173	Alprazolam 2
	65. 03/10/05	246256	Butalbital/cod
21	66. 03/10/05	246319	Hydrocodone
	67. 03/10/05	246317	Hydrocodone
22	68. 03/10/05	246337	Hydrocodone
	69. 03/10/05	246339	Hydrocodone
23	70. 03/10/05	246340	Ambien 10
	71. 03/10/05	246365	Hydrocodone
24	72. 03/10/05	246371	Avinza
	73. 03/10/05	246373	Tenuate
25	74. 03/10/05	246375	Oxandrin
	75. 03/10/05	246378	Dilaudid
26	76. 03/10/05	246380	Dilaudid
	77. 03/10/05	246382	Dilaudid
27	78. 03/10/05	246384	Dilaudid
	79. 03/10/05	246385	Dilaudid
28	80. 03/10/05	246386	Dilaudid

1	81.	03/10/05	246387		Dilaudid
	82.	03/10/05	246388		Dilaudid
	83.	03/10/05	246389		Dilaudid
2	84.	03/10/05	246391		Hydrocodone
	85.	03/10/05	246403		Oxycodone
3	86.	03/10/05	249322		Hydrocodone
	87.	03/14/05	246676		Oxycodone
4	88.	03/15/05	246839		Oxycodone
	89.	03/15/05	246848		Oxycodone
5	90.	03/17/05	247216		Oxycodone
	91.	03/17/05	247217		Oxycodone
6	92.	03/22/05	247636		Oxycodone
	93.	03/22/05	247643		Hydrocodone
7	94.	03/22/05	247680		Astelin
	95.	03/22/05	247681		Aciphex
8	96.	03/22/05	247687		Dexedrine
	97.	03/22/05	247722		Duragesic
9	98.	03/22/05	247723		Duragesic
	99.	03/28/05	248259		Warfarin
10	100.	03/28/05	248324		Alprazolam 2
	101.	03/28/05	248451		Propecia
11	102.	03/30/05	248701		Oxycodone
	103.	03/31/05	248794		Hydrocodone
12	104.	03/31/05	248935		Oxycodone
	105.	04/01/05	249155		Astelin
13	106.	04/04/05	249188		Oxycodone
	107.	04/04/05	249246		Toprol xl
14	108.	04/04/05	249297		Amoxicillin
	109.	04/05/05	249189		Actiq
15	110.	04/05/05	249225		Actiq
	111.	04/05/05	249389		Cialis
16	112.	04/06/05	249575		Dilaudid
	113.	04/07/05	249707		Alprazolam 2
17	114.	04/07/05	249720		Astelin
	115.	04/07/05	249721		Optivar
18	116.	04/08/05	249908		Viagra
	117.	04/11/05	250127		Ambien 10
19	118.	04/11/05	250128		Hydrocodone
	119.	04/11/05	250129		Valium
20	120.	04/13/05	250519		Hydrocodone
	121.	04/21/05	251720		Oxycodone
21	122.	04/21/05	251794		Percocet
	123.	04/25/05	252623		Astelin
22	124.	04/25/05	252624		Optivar
	125.	04/26/05	252262		Valtrex 500
23	126.	04/28/05	252548		Dexedrine
	127.	04/28/05	252659		Adderall
24	128.	04/28/05	252666		Oxycodone
	129.	04/28/05	252667		Oxycodone
25	130.	04/28/05	252668		Oxycodone
	131.	04/28/05	252683		Dexedrine
26	132.	04/28/05	252687		Oxycodone
	133.	04/28/05	252688		Oxycodone
27	134.	04/28/05	252689		Oxycodone
	135.	04/28/05	252713		Oxycodone
28	136.	04/29/05	252726		Actiq

1	137.04/29/05	252727	Oxycodone
2	138.04/29/05	252728	Actiq
3	139.04/29/05	252745	Oxycodone
4	140.04/29/05	252746	Oxycodone
5	141.04/29/05	252758	Actiq
6	142.04/29/05	252759	Oxycodone
7	143.04/29/05	252760	Oxycodone
8	144.04/29/05	252768	Oxycodone
9	145.04/29/05	252769	Oxycodone
10	146.04/29/05	252770	Oxycodone
11	147.04/29/05	252774	Oxycodone
12	148.04/29/05	252775	Oxycodone
13	149.04/29/05	252776	Actiq
14	150.04/29/05	252777	Oxycodone
15	151.04/29/05	252778	Oxycodone
16	152.05/02/05	253023	Adderall
17	153.05/26/05	255814	Hydrocodone
18	154.06/03/05	256588	Alprazolam 2
19	155.06/03/05	256589	Hydrocodone
20	156.06/12/05	264385	Oxycodone
21	157.06/13/05	257570	Alprazolam 2
22	158.06/20/05	258372	Alprazolam 2
23	159.06/20/05	258373	Hydrocodone
24	160.06/24/05	246767	Oxycodone
25	161.06/30/05	259549	Carisprodol
26	162.07/08/05	260180	Alprazolam 2
27	163.08/18/05	264831	Alprazolam 2

SECOND CAUSE FOR DISCIPLINE

(Failure to Validate and/or Determine Legitimacy of a Prescription)

20. Respondents WESTPARK PHARMACY and LEON AVAKIAN subject to disciplinary action under Code section 4301, subdivisions (j) and (o) in conjunction with Health and Safety Code section 11153, subdivision (a) due to Respondents' failure of the statutory duty of corresponding responsibility to assure that prescriptions be issued for a legitimate medical purpose, due to Respondents' filling at least 157 prescriptions written by Dr. Braun (120 prescriptions for controlled substances; and 43 prescriptions for legend pharmaceuticals) after Dr. Braun's license was revoked on March 10, 2005, despite significant irregularities, and despite knowing or having objective reason to know that said prescription(s) were not issued for a legitimate medical purpose, for patients as referenced in paragraphs 18 and 19 above.

THIRD CAUSE FOR DISCIPLINE

(Illegal Refilling of a Controlled Substance Prescription)

21. Respondents WESTPARK PHARMACY and LEON AVAKIAN subject to

1 disciplinary action under Code section 4301, subdivisions (j) and (o) in conjunction with Health
 2 and Safety Code section 11200, subdivision (a) (which prohibits dispensing or refilling controlled
 3 substance prescriptions more than six months after date of issuance), in that on dates between
 4 April 7, 2005 and August 12, 2005, Respondents dispensed/ refilled at least 28 prescriptions for
 5 controlled substances more than 6 months after the date the prescription was written, to patients
 6 as follows:

DATE	ORIGINAL DATE	RX NO.	PATIENT	DRUG	QTY.	DOCTOR	PAST 6 MO.
1. 4/7/2005	10/26/2004	226998		Ambien	30	Braun	1
2. 4/11/2005	10/19/2004	226200		HC 10/325	120	Braun	1
3. 4/11/2005	11/11/2004	229270		HC 10/325	120	Braun	1
4. 4/14/2005	11/29/2004	231123		HC 10/325	120	Braun	1
5. 4/22/2005	11/9/2004	228836		Diethylprop	30	Braun	1
6. 4/22/2005	11/29/2004	231201		Ambien	60	Braun	1
7. 4/28/2005	11/2/2004	227838		HC 10/325	100	Braun	1
8. 5/3/2005	11/9/2004	228851		Lorazepam	100	Braun	1
9. 5/4/2005	12/9/2004	232798		Diazepam	60	Braun	1
10. 5/5/2005	12/16/2004	233768		HC 10/325	100	Braun	1
11. 5/11/2005	11/11/2004	229186		Alprazolam	100	Braun	1
12. 5/16/2005	12/14/2004	233406		HC 10/325	120	Braun	1
13. 5/18/2005	12/27/2004	235167		HC/ibu	100	Braun	1
14. 5/20/2005	11/22/2004	230520		Alprazolam	100	Braun	1
15. 5/24/2005	12/16/2004	233796		HC10/325	150	Braun	1
16. 6/2/2005	12/2/2004	231773		HC 10/325	100	Braun	1
17. 6/2/2005	12/13/2004	233192		Diazepam	100	Braun	1
18. 6/2/2005	12/13/2004	233193		Ambien	30	Braun	1
19. 6/2/2005	12/13/2004	233197		HC 10/325	100	Braun	1
20. 6/2/2005	12/14/2004	233465		Hc 10/325	100	Braun	1
21. 6/2/2005	12/17/2004	233993		Didrex	100	Braun	1
22. 6/2/2005	12/28/2004	235429		Triazolam	10	Braun	1
23. 6/3/2005	12/9/2004	232809		Clonazepam	120	Braun	1
24. 6/3/2005	12/14/2004	233406		HC 10/325	120	Braun	1
25. 6/3/2005	12/30/2004	234080		HC 10/325	100	Braun	1
26. 6/13/2005	12/17/2004	233981		HC 10/325	100	Braun	1
27. 6/15/2005	12/16/2004	233768		HC 10/325	100	Braun	1
28. 8/12/2005	8/12/2005	264363		HC/ibu	100	Braun	1

FOURTH CAUSE FOR DISCIPLINE

(Furnishing Dangerous Drugs Without a Prescription)

22. Respondents WESTPARK PHARMACY and LEON AVAKIAN and ELOY RUBIO are subject to disciplinary action under Code section 4301, subdivisions (j) and (o) in conjunction with Code sections 4059 and 4039 prohibiting the furnishing of any dangerous drug, except upon the prescription of a physician, in that Respondents knowingly filled or caused to be filled a total

1 of 157 prescriptions written by Dr. Braun (120 prescriptions for controlled substances; and 43
2 prescriptions for legend pharmaceuticals) after Dr. Braun's license was revoked on March 10,
3 2005, to patients as referenced in paragraphs 18 and 19 above.

4 **FIFTH CAUSE FOR DISCIPLINE**

5 (Noncompliance with Prescription Container Label Requirements)

6 23. Respondents WESTPARK PHARMACY and LEON AVAKIAN subject to
7 disciplinary action under Code section 4301, subdivisions (j) and (o) in conjunction with Code
8 section 4076 subdivision (a) (4) (which requires a prescription container to be correctly labeled
9 with the prescriber's name) on 5 instances in May of 2005, Respondents dispensed drugs in
10 containers which did not comply with labeling requirements as follows:

11 1. Rx # 253023, dated 5/2/205, Adderall 30mg for C.D., written by Dr. Steven Y.,
12 prescription label indicates dispensed under Dr. Braun.

13 2. Rx # 253360, dated 5/4/2005, Norco 10/325 for J.B., written Dr. Steven Y.,
14 prescription label indicates dispensed under Dr. Braun.

15 3. Rx # 253792, dated 5/9/2005, Lorazepam 2mg for D.L., written by Dr. Vik S.,
16 prescription label indicated dispensed under Dr. Braun.

17 4. Rx # 253791, dated 5/9/2005, Soma 350, for D.L., written by Dr. Vik S., prescription
18 label indicated dispensed under Dr. Braun.

19 5. Rx # 255814, dated 5/26/2005, Norco 10/325 written by Dr. Steven Y., prescription
20 label indicates dispensed under Dr. Braun.

21 **SIXTH CAUSE FOR DISCIPLINE**

22 (Violating, Conspiring to Violate or Abetting Violation of Pharmacy Law)

23 24. Respondent ELOY RUBIO is subject to disciplinary action under Code section 4301,
24 subdivisions (j) and (o) in that between approximately May 2004 and October 19, 2005,
25 Respondent Rubio conspired with or assisted/abetted Dr. Robert Braun to unlawfully distribute
26 and dispense scheduled controlled substances, including Oxycontin, Methadone, Morphine,
27 Hydromorphone, Hydrocodone, Lorazepam, Vicodin and Norco, in violation of state and federal
28 laws, including but not limited to Title 21 of the United States Code sections 846 and 842

1 subdivisions (a)(1), and Code sections 4059, subdivision (a) and 4060 in conjunction with Health
2 and Safety Code section 11350, subdivision (a), as a more fully described in paragraphs 18-23
3 above, said acts resulting in Dr. Braun's criminal convictions on March 7, 2007.

4 SEVENTH CAUSE FOR DISCIPLINE

5 (Unprofessional Conduct -- Acts Involving Dishonesty, Fraud, Deceit or Corruption)

6 10. Respondent ELOY RUBIO is subject to disciplinary action under Code section 4301,
7 subdivision (f) due to his commission of acts involving moral turpitude, dishonesty, fraud, deceit,
8 or corruption, in that between approximately May 2004 and October 19, 2005 Respondent Rubio
9 conspired with Dr. Robert Braun to unlawfully distribute and dispense Scheduled controlled
10 substances, including Oxycontin, Methadone, Morphine, Hydromorphone,
11 Hydrocodone, Lorazepam, Vicodin and Norco, in violation of state and federal law, including but
12 not limited to Title 21 of the United States Code sections 846,842 subdivisions (a)(1), and Code
13 sections 4059, subdivision "a" and 4060 in conjunction with Health and Safety Code section
14 11350, subdivision (a), as more fully described in paragraphs 18-23 above.

15 PRAYER

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

- 18 1. Revoking or suspending Pharmacy Permit Number PHY 45155, issued to Westpark
19 Pharmacy;
- 20 2. Revoking or suspending Pharmacist License Number RPH 48020, issued to Leon
21 Avakian;
- 22 3. Revoking or suspending Pharmacy Technician License Number TCH 25981, issued
23 to Elroy Rubio;

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25 ///

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1 4. Ordering Respondents, and each of them, to pay the Board of Pharmacy the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3;

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

5 DATED: 2/23/11


6 VIRGINIA HEROLD

7 Executive Officer

8 Board of Pharmacy

9 Department of Consumer Affairs

State of California

Complainant

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