

**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 SETTLEMENT AND  
DISCIPLINARY ORDER  
AS TO RESPONDENT  
LEON AVAKIAN ONLY**

**DECISION AND ORDER**

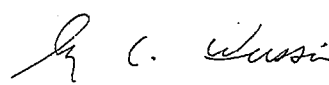
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on 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  
Deputy Attorney General  
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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 Respondents.

Case No. 3625  
OAH No. L-2011060812

19 **STIPULATED SETTLEMENT AND**  
20 **DISCIPLINARY ORDER**  
21 **AS TO RESPONDENT LEON AVAKIAN**  
22 **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 Settlement and Disciplinary Order which will  
22 be submitted to the Board for approval and adoption as the final disposition of the Accusation  
23 solely with respect to Respondent LEON AVAKIAN.

24 **PARTIES**

25  
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 D. Harris, Attorney General of the State of California, by Susan Melton Wilson, Deputy Attorney

1 General.

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

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

12 4. Respondent Leon Avakian, in his individual capacity and as authorized representative  
13 of the corporate license holder, is represented in this proceeding by Brown White & Newhouse  
14 LLP, by attorney Alfredo X. Jarrin, whose address is: 333 South Hope Street, 40th Floor, Los  
15 Angeles, CA 90071 and attorney Joseph P. Furman, Furman Healthcare Law, 9701 Wilshire  
16 Boulevard, 10th Floor, Beverly Hills, CA 90212.

17  
18  
19 JURISDICTION

20 5. Accusation No. 3625 was filed before the Board of Pharmacy (Board), Department of  
21 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other  
22 statutorily required documents were properly served to Respondent on March 3, 2011, and  
23 Respondent timely filed a Notice of Defense contesting the Accusation. A copy of Accusation  
24 No. 3625 is attached as Exhibit A and incorporated herein by reference.

25  
26 ADVISEMENT AND WAIVERS

27 6. Respondent has carefully read, fully discussed with counsel, and understands the  
28 charges and allegations in Accusation No. 3625. Respondent has also carefully read, fully

1 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
2 Order.

3 7. Respondent is fully aware of his legal rights in this matter, including the right to a  
4 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at  
5 its own expense; the right to confront and cross-examine the witnesses against them; the right to  
6 present evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel  
7 the attendance of witnesses and the production of documents; the right to reconsideration and  
8 court review of an adverse decision and all other rights accorded by the California Administrative  
9 Procedure Act and other applicable laws.  
10

11 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
12 every right set forth above.

13  
14 CULPABILITY

15 9. Respondent understands and agrees that the charges and allegations of Accusation  
16 No. 3625, if proven at hearing, constitute cause for imposing discipline upon his Pharmacist  
17 License.

18 10. For the purpose of resolving the Accusation without the expense and uncertainty of  
19 further proceedings, Respondent agrees that at hearing, Complainant could establish a factual  
20 basis for the charges in the Accusation, and Respondent hereby gives up his right to contest those  
21 charges.

22 11. Respondent agrees that his Pharmacist License No. RPH 48020 is subject to  
23 discipline and agrees to be bound by the Board's probationary terms as set forth in the  
24 Disciplinary Order below.

25 RESERVATION

26 12. The admissions made by Respondent herein are only for the purposes of this  
27 proceeding, or any other proceedings in which the Board of Pharmacy or other regulatory  
28

1 licensing agency is involved, and shall not be admissible in any other criminal or civil  
2 proceeding.

3 CONTINGENCY

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

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

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

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

25 DISCIPLINARY ORDER

26 IT IS HEREBY ORDERED that Original Pharmacist License Number RPH 48020 issued  
27 to **LEON AVAKIAN** is revoked. However, the revocation is stayed and Respondent is placed  
28 on probation for four (4) years on the terms and conditions listed below.

1           **1. Suspension**

2           As part of probation, License number RPH 48020, issued to respondent Leon Avakian is  
3 suspended for a period of 90 (ninety) days beginning the effective date of this decision.

4           Respondent shall cease all pharmacy operations during the period of suspension. Failure to  
5 comply with this suspension shall be considered a violation of probation.

6           During suspension, respondent shall not enter any pharmacy area or any portion of the  
7 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of  
8 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices  
9 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act  
10 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient  
11 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the  
12 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs  
13 and devices or controlled substances.

14           Respondent shall not engage in any activity that requires the professional judgment of a  
15 pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy.  
16 Respondent shall not perform the duties of a pharmacy technician or a designated representative  
17 for any entity licensed by the board.

18           Subject to the above restrictions, respondent may continue to own or hold an interest in any  
19 licensed premises in which he holds an interest at the time this decision becomes effective unless  
20 otherwise specified in this order.

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

22           **2. Obey All Laws**

23           Respondent Avakian shall obey all state and federal laws and regulations.

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

- 26           • an arrest or issuance of a criminal complaint for violation of any provision of the  
27 Pharmacy Law, state and federal food and drug laws, or state and federal controlled  
28 substances laws

- 1 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
- 2 criminal complaint, information or indictment
- 3 • a conviction of any crime
- 4 • discipline, citation, or other administrative action filed by any state or federal agency
- 5 which involves respondent's pharmacist license or which is related to the practice of
- 6 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
- 7 for any drug, device or controlled substance.

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

9 **3. Report to the Board**

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

18 **4. Interview with the Board**

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

24 **5. Cooperate with Board Staff**

25 Respondent shall cooperate with the board's inspection program and with the board's  
26 monitoring and investigation of respondent's compliance with the terms and conditions of his  
27 probation. Failure to cooperate shall be considered a violation of probation.

28 / / /

1           **6. Continuing Education**

2           Respondent shall provide evidence of efforts to maintain skill and knowledge as a  
3 pharmacist as directed by the board or its designee.

4           **7. Notice to Employers**

5           During the period of probation, respondent shall notify all present and prospective  
6 employers of the decision in case number 3625 and the terms, conditions and restrictions imposed  
7 on respondent by the decision, as follows:

8           Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
9 respondent undertaking any new employment, respondent shall cause his direct supervisor,  
10 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's  
11 tenure of employment) and owner to report to the board in writing acknowledging that the listed  
12 individual(s) has/have read the decision in case number 3625, and terms and conditions imposed  
13 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)  
14 submit timely acknowledgment(s) to the board.

15           If respondent works for or is employed by or through a pharmacy employment service,  
16 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity  
17 licensed by the board of the terms and conditions of the decision in case number 3625 in advance  
18 of the respondent commencing work at each licensed entity. A record of this notification must be  
19 provided to the board upon request.

20           Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
21 (15) days of respondent undertaking any new employment by or through a pharmacy employment  
22 service, respondent shall cause his direct supervisor with the pharmacy employment service to  
23 report to the board in writing acknowledging that he has read the decision in case number 3625  
24 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure  
25 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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



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

5 **8. Reimbursement of Board Costs**

6 Respondent Leon Avakian shall be jointly and severally liable with Avakian Inc., a  
7 corporation licensed to do business as Westpark Pharmacy under Pharmacy Permit Number PHY  
8 45155, for reimbursement to the board of its costs of investigation and prosecution in the total  
9 aggregate sum of \$15, 000. (Fifteen Thousand Dollars). Full payment of costs is a condition  
10 precedent to successful completion of probation. Respondents shall make said payments as  
11 approved by the Board. There shall be no deviation from this schedule absent prior written  
12 approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be  
13 considered a violation of probation.

14 The filing of bankruptcy by respondent Leon Avakian shall not relieve respondent of his  
15 responsibility to reimburse the board its costs of investigation and prosecution.

16 **9. Probation Monitoring Costs**

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

21 **10. Status of License**

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

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

1           **11. License Surrender While on Probation/Suspension**

2           Following the effective date of this decision, should respondent cease practice due to  
3 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,  
4 respondent may tender his license to the board for surrender. The board or its designee shall have  
5 the discretion whether to grant the request for 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           Upon acceptance of the surrender, respondent shall relinquish his pocket and wall license to  
10 the board within ten (10) days of notification by the board that the surrender is accepted.  
11 Respondent may not reapply for any license from the board for three (3) years from the effective  
12 date of the surrender. Respondent shall meet all requirements applicable to the license sought as  
13 of the date the application for that license is submitted to the board, including any outstanding  
14 costs.

15           **12. Notification of a Change in Name, Residence Address, Mailing Address or**  
16 **Employment**

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

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

24           **13. Tolling of Probation**

25           Except during periods of suspension, respondent shall, at all times while on probation, be  
26 employed as a pharmacist in California for a minimum of 24 (twenty-four) hours per calendar  
27 month. Any month during which this minimum is not met shall toll the period of probation, i.e.,  
28 the period of probation shall be extended by one month for each month during which this

1 minimum is not met. During any such period of tolling of probation, respondent must  
2 nonetheless comply with all terms and conditions of probation.

3 Should respondent, regardless of residency, for any reason (including vacation) cease  
4 practicing as a pharmacist for a minimum of 24 (twenty-four) hours per calendar month in  
5 California, respondent must notify the board in writing within ten (10) days of the cessation of  
6 practice, and must further notify the board in writing within ten (10) days of the resumption of  
7 practice. Any failure to provide such notification(s) shall be considered a violation of probation.

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

11 "Cessation of practice" means any calendar month during which respondent is not  
12 practicing as a pharmacist for at least 24 (twenty-four) hours, as defined by Business and  
13 Professions Code section 4000 et seq. "Resumption of practice" means any calendar month  
14 during which respondent is practicing as a pharmacist for at least 24 (twenty-four) hours as a  
15 pharmacist as defined by Business and Professions Code section 4000 et seq.

#### 16 14. **Violation of Probation**

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

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

1           **15. Completion of Probation**

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

4           **16. Community Services Program**

5           Within sixty (60) days of the effective date of this decision, respondent shall submit to the  
6 board or its designee, for prior approval, a community service program in which respondent shall  
7 provide free services on a regular basis to a community or charitable facility or agency for at least  
8 75 (seventy-five) hours per year for each of the four years of probation. Within thirty (30) days of  
9 board approval thereof, respondent shall submit documentation to the board demonstrating  
10 commencement of the community service program. A record of this notification must be  
11 provided to the board upon request. Respondent shall report on progress with the community  
12 service program in the quarterly reports. Failure to timely submit, commence, or comply with the  
13 program shall be considered a violation of probation.

14           **17. Remedial Education**

15           Within sixty (60) days of the effective date of this decision, respondent shall submit to the  
16 board or its designee, for prior approval, an appropriate program of remedial education related to  
17 record keeping, dispensing of controlled substances and pharmacy security. The program of  
18 remedial education shall consist of at least 15 (fifteen) hours, which shall be completed within the  
19 first two (2) year of probation at respondent's own expense. All remedial education shall be in  
20 addition to, and shall not be credited toward, continuing education (CE) courses used for license  
21 renewal purposes.

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

26           Following the completion of each course, the board or its designee may require the  
27 respondent, at his own expense, to take an approved examination to test the respondent's  
28 knowledge of the course. If the respondent does not achieve a passing score on the examination,

1 this failure shall be considered a violation of probation. Any such examination failure shall  
2 require respondent to take another course approved by the board in the same subject area.

3 **18. Tolling of Suspension**

4 During the period of suspension, respondent shall not leave California for any period  
5 exceeding ten (10) days, regardless of purpose (including vacation), without notification. Any  
6 such absence in excess of the (10) days during suspension shall be considered a violation of  
7 probation. Moreover, any absence from California during the period of suspension exceeding ten  
8 (10) days shall toll the suspension, i.e., the suspension shall be extended by one day for each day  
9 over ten (10) days respondent is absent from California. During any such period of tolling of  
10 suspension, respondent must nonetheless comply with all terms and conditions of probation.

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

16 **19. Ethics Course**

17 Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll  
18 in a course in ethics, at respondent's expense, approved in advance by the board or its designee.  
19 Failure to initiate the course during the first year of probation, and complete it within the second  
20 year of probation, is a violation of probation.

21 Respondent shall submit a certificate of completion to the board or its designee within five  
22 days after completing the course.

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

25 During the period of probation, respondent shall not supervise any intern pharmacist, be the  
26 pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board  
27 nor serve as a consultant unless otherwise specified in this order. Assumption of any such  
28 unauthorized supervision responsibilities shall be considered a violation of probation.

1 **21. No Ownership of Licensed Premises**

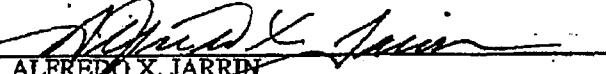
2 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,  
3 administrator, member, officer, director, trustee, associate, or partner of any business, firm,  
4 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell  
5 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)  
6 days following the effective date of this decision and shall immediately thereafter provide written  
7 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide  
8 documentation thereof shall be considered a violation of probation.

9 ACCEPTANCE

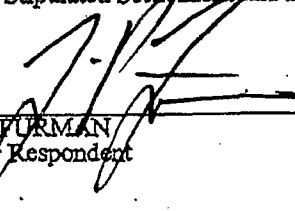
10 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
11 discussed it with my attorneys, Alfredo X. Jarrin and Joseph P. Furman. I understand the  
12 stipulation and the effect it will have on my Pharmacist License No. RPH 48020. I enter into this  
13 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree  
14 to be bound by the Decision and Order of the Board of Pharmacy.

15  
16 DATED: 1/15/13   
17 LEON AVAKIAN

18 I have read and fully discussed with my client Respondent Leon Avakian all terms and  
19 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
20 I approve its form and content.

21 DATED: 1/18/13   
22 ALFREDO X. JARRIN  
Attorney for Respondent

23 I have read and fully discussed with my client, Respondent Leon Avakian all terms and  
24 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
25 I approve its form and content.

26 DATED: JAN. 18, 2013   
27 JOSEPH P. FURMAN  
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: 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  
Supervising Deputy Attorney General  
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Deputy Attorney General  
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7 *Attorneys for Complainant*

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

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19 Pharmacist License No. RPH 48020

20 **ELOY RUBIO**  
16352 Devonshire Street  
21 Granada Hills, CA 91344

22 Pharmacy Technician License No. TCH 25981

23 Respondents.

24  
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           2.    On or about March 2, 2001, the Board of Pharmacy issued Pharmacy Permit Number  
2   PHY 45155 to Avakian Inc., a corporation, to do business as Westpark Pharmacy (Respondent  
3   Westpark). At all times since issuance of the license, Respondent Leon Avakian is listed in  
4   Board records as both president of Avakian Inc. as well as the pharmacist-in-charge of Westpark  
5   Pharmacy. The Pharmacy Permit was in full force and effect at all times relevant to the charges  
6   brought herein and will expire on March 1, 2011, unless renewed.

7           3.    On or about August 8, 1955, the Board of Pharmacy issued Original Pharmacist  
8   License Number RPH 48020 to Leon Avakian (Respondent Avakian). The Pharmacist License  
9   was in full force and effect at all times relevant to the charges brought herein and will expire on  
10   September 30, 2012, unless renewed.

11          4.    On or about June 9, 1998, the Board of Pharmacy issued Pharmacy Technician  
12   License Number TCH 25981 to Eloy Rubio (Respondent Rubio). The Pharmacy Technician  
13   License was in full force and effect at all times relevant to the charges brought herein and will  
14   expire on August 31, 2011, unless renewed.

### 15   **JURISDICTION**

16          5.    This Accusation is brought before the Board of Pharmacy (Board), Department of  
17   Consumer Affairs, under the authority of the following laws. All section references are to the  
18   Business and Professions Code unless otherwise indicated.

19          6.    Section 4300 of the Code states:

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

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

24               (1)   Suspending judgment.

25               (2)   Placing him or her upon probation.

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

27               (4)   Revoking his or her license.

28   ///

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

#### 14 SUMMARY OF FACTS

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

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

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

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

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

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

24 (2) Dr. Braun would suggest that the prescription be filled at Respondent  
25

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 (Filling 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
1. 3/22/2005	247692		HC 10/500
2. 3/22/2005	247687		Dextro
3. 3/22/2005	247723		Duragésic
4. 3/25/2005	245892		HC 10/500
5. 3/25/2005	245892		Soma
6. 3/30/2005	248742		Lorazepam
7. 4/7/2005	226998		Ambien
8. 4/7/2005	249707		Alprazolam
9. 4/11/2005	250127		Ambien
10. 4/11/2005	250128		HC10/325
11. 4/22/2005	250129		Diazepam
12. 4/22/2005	226200		HC 10/325
13. 4/11/2005	229270		HC 10/325
14. 4/13/2005	250519		HC 10/325
15. 4/14/2005	231123		HC 10/325
16. 4/15/2005	245892		HC 10/325
17. 4/18/2005	246339		HC 10/650
18. 4/22/2005	228836		Diethylprop
19. 4/22/2005	231201		Ambien
20. 4/26/2005	248324		Alprazolam
21. 4/28/2005	227838		HC 10/325
22. 4/28/2005	249322		HC 10/325
23. 5/3/2005	228851		Lorazepam
24. 5/4/2005	253360		HC 10/325

1	25. 5/4/2005	232798	Diazepam
	26. 5/5/2005	233768	HC 10/325
2	27. 5/5/2005	253581	HC 10/325
	28. 5/6/2005	253758	Vic ES
3	29. 5/9/2005	253792	Lorazepam
	30. 5/11/2005	229186	Alprazolam
4	31. 5/16/2005	233406	HC 10/325
	32. 5/17/2005	254736	Prometh C
5	33. 5/18/2005	235167	HC/ibu
	34. 5/20/2005	230520	Alprazolam
6	35. 5/24/2005	233796	HC 10/325
	36. 5/24/2005	249322	HC 10/325
7	37. 5/26/2005	255814	HC 10/325
	38. 5/31/2005	256240	HC 10/325
8	39. 5/31/2005	248794	HC 10/325
	40. 6/2/2005	231773	HC 10/325
9	41. 6/2/2005	233192	Diazepam
	42. 6/2/2005	233193	Ambien
10	43. 6/2/2005	233197	HC 10/325
	44. 6/2/2005	233465	HC 10/325
11	45. 6/2/2005	233993	HC 10/325
	46. 6/2/2005	249707	Alprazolam
12	47. 6/2/2005	235429	Triazolam
	48. 6/3/2005	232809	Clonazepam
13	49. 6/3/2005	233406	HC 10/325
	50. 6/3/2005	234080	HC 10/325
14	51. 6/3/2005	249908	Viagra
	52. 6/9/2005	246152	Hydro/ibu
15	53. 6/13/2005	246339	HC 10/659
	54. 6/13/2005	257570	Alprazolam
16	55. 6/13/2005	233981	HC 10/325
	56. 6/15/2005	233768	HC 10/325
17	57. 6/20/2005	258298	HC 10/325
	58. 6/30/2005	256589	HC 10/325
18	59. 7/7/2005	260099	HC 10/660
	60. 7/8/2005	250180	Alprazolam
19	61. 8/12/2005	264361	Diazepam
	62. 8/12/2005	264363	HC/ibu
20	63. 03/09/05	248365	Wellbutrin
	64. 03/10/05	246173	Alprazolam 2
21	65. 03/10/05	246256	Butalbital/cod
	66. 03/10/05	246319	Hydrocodone
22	67. 03/10/05	246317	Hydrocodone
	68. 03/10/05	246337	Hydrocodone
23	69. 03/10/05	246339	Hydrocodone
	70. 03/10/05	246340	Ambien 10
24	71. 03/10/05	246365	Hydrocodone
	72. 03/10/05	246371	Avinza
25	73. 03/10/05	246373	Tenuate
	74. 03/10/05	246375	Oxandrin
26	75. 03/10/05	246378	Dilaudid
	76. 03/10/05	246380	Dilaudid
27	77. 03/10/05	246382	Dilaudid
	78. 03/10/05	246384	Dilaudid
28	79. 03/10/05	246385	Dilaudid
	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	Dexedine
	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
	138.04/29/05	252728	Actiq
2	139.04/29/05	252745	Oxycodone
	140.04/29/05	252746	Oxycodone
3	141.04/29/05	252758	Actiq
	142.04/29/05	252759	Oxycodone
4	143.04/29/05	252760	Oxycodone
	144.04/29/05	252768	Oxycodone
5	145.04/29/05	252769	Oxycodone
	146.04/29/05	252770	Oxycodone
6	147.04/29/05	252774	Oxycodone
	148.04/29/05	252775	Oxycodone
7	149.04/29/05	252776	Actiq
	150.04/29/05	252777	Oxycodone
8	151.04/29/05	252778	Oxycodone
	152.05/02/05	253023	Adderall
9	153.05/26/05	255814	Hydrocodone
	154.06/03/05	256588	Alprazolam 2
10	155.06/03/05	256589	Hydrocodone
	156.06/12/05	264385	Oxycodone
11	157.06/13/05	257570	Alprazolam 2
	158.06/20/05	258372	Alprazolam 2
12	159.06/20/05	258373	Hydrocodone
	160.06/24/05	246767	Oxycodone
13	161.06/30/05	259549	Carisprodol
	162.07/08/05	260180	Alprazolam 2
14	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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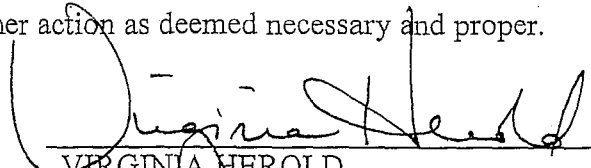
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4. Ordering Respondents, and each of them, to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 2/23/11



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

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