

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

In the Matter of the Accusation Against:

Case No. 3761

**FED-RX PHARMACY**

Pharmacy Permit No. PHY 39339

and

**DANIEL INBONG LEE**

Pharmacist License No. RPH 42633

Respondent.

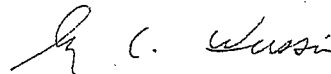
**DECISION AND ORDER**

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 October 19, 2011.

It is so ORDERED September 19, 2011.

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 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 DAVID E. HAUSFELD  
Deputy Attorney General  
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*Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 3761

12 **FED-RX PHARMACY**

OAH No. 2010120753

13 **and**

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

14 **DANIEL INBONG LEE**

15  
16 Respondents.

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
19 proceeding that the following matters are true:

20 **PARTIES**

21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
22 She brought this action solely in her official capacity and is represented in this matter by Kamala  
23 D. Harris, Attorney General of the State of California, by David E. Hausfeld, Deputy Attorney  
24 General.

25 2. Daniel Inbong Lee, individually and doing business as Fed-Rx Pharmacy  
26 (Respondent) is represented in this proceeding by attorney Kevin C. Murphy, whose address is  
27 2445 5th Avenue, Suite 330, San Diego, CA 92101.

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1 CUJ.PABILITY

2 9. Respondent admits the truth of each and every charge and allegation in Accusation  
3 No. 3761, agrees that cause exists for discipline and hereby surrenders his Pharmacist License  
4 No. RPH 42633 and his Pharmacy Permit Number PHY 39339 for the Board's formal acceptance.

5 10. Respondent understands that by signing this stipulation he enables the Board to issue  
6 an order accepting the surrender of his Pharmacist License and his Pharmacy Permit without  
7 further process.

8 CONTINGENCY

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

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

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

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

ORDER

1  
2 IT IS HEREBY ORDERED that Pharmacist License No. RPH 42633, issued to Respondent  
3 Daniel Inbong Lee, and Pharmacy Permit Number PHY 39339 issued to Daniel Inbong Lee, dba  
4 Fed-Rx Pharmacy, are surrendered and accepted by the Board of Pharmacy.

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

9 2. Respondent shall lose all rights and privileges as a pharmacist and to operate a  
10 pharmacy in California as of the effective date of the Board's Decision and Order.

11 3. Respondent shall relinquish his wall license and pocket renewal license to the Board  
12 within 10 days of the effective date of this decision.

13 4. If Respondent ever applies for licensure in the State of California, the Board shall  
14 treat it as a new application for licensure. Respondent must comply with all the laws, regulations  
15 and procedures for licensure in effect at the time the application or petition is filed, and all of the  
16 charges and allegations contained in Accusation No. 3761 shall be deemed to be true, correct and  
17 admitted by Respondent when the Board determines whether to grant or deny the application or  
18 petition.

19 5. Respondent shall pay the Board its costs of investigation and enforcement in the  
20 amount of \$12,500.00 prior to issuance of a new or reinstated license.

21 6. If Respondent ever applies for licensure or petitions for reinstatement in the State of  
22 California the Board shall treat it as a new application for licensure. Respondent must comply  
23 with all the laws, regulations and procedures for licensure in effect at the time the application or  
24 petition is filed, and all of the charges and allegations contained in Accusation No. 3761 shall be  
25 deemed to be true, correct and admitted by Respondent when the Board determines whether to  
26 grant or deny the application or petition.

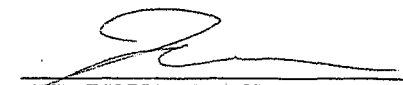
27 7. Respondent may not apply, reapply, or petition for any licensure or registration of the  
28 Board for three (3) years from the effective date of the Decision and Order.

ACCEPTANCE

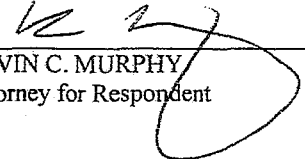
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I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Kevin C. Murphy. I understand the stipulation and the effect it will have on my Original Pharmacist License and my Pharmacy Permit. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 7-26-11   
DANIEL INBONG LEE  
Respondent

DATED: 7-26-11   
FED-RX PHARMACY  
By DANIEL INBONG LEE  
Respondent

I have read and fully discussed with Respondent Daniel Inbong Lee the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 7/26/11   
KEVIN C. MURPHY  
Attorney for Respondent

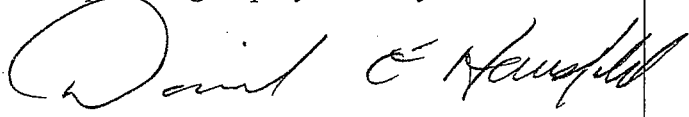
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ENDORSEMENT

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: 7/26/11

Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
LINDA K. SCHNEIDER  
Supervising Deputy Attorney General



DAVID E. HAUSFELD  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 3761**



1 EDMUND G. BROWN JR.  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 DAVID E. HAUSFELD  
Deputy Attorney General  
4 State Bar No. 110639  
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5 San Diego, CA 92101  
P.O. Box 85266  
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9 **BEFORE THE**  
**BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 3761

12 **FED-RX PHARMACY**  
13 **4002 30th Street**  
14 **San Diego, CA 92104**

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

15 **Permit No. PHY 39339**

16 **DANIEL INBONG LEE**  
17 **4002 30th Street**  
**San Diego, CA 92104**

18 **Pharmacist License No. RPH 42633**

19 Respondent.

20  
21 Complainant alleges:

22 **PARTIES**

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

25 2. On or about May 21, 1993, the Board of Pharmacy issued Pharmacy Permit Number  
26 PHY 39339 to Daniel Inbong Lee dba Fed-Rx Pharmacy (Respondent Pharmacy). The Pharmacy  
27 Permit was in full force and effect at all times relevant to the charges brought herein and will  
28 expire on May 1, 2011, unless renewed.



STATUTORY PROVISIONS

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

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

....  
(d) The clearly excessive furnishing of controlled substances in violation of subdivision (a) of Section 11153 of the Health and Safety Code.

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

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

....

9. Section 4113 (b) of the Code provides that the pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

10. Health & Safety Code section 11153, states, in pertinent part:

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

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1 REGULATORY PROVISIONS

2 11. Title 16, California Code of Regulations (CCR), section 1761 states:

3 (a) No pharmacist shall compound or dispense any prescription which  
4 contains any significant error, omission, irregularity, uncertainty, ambiguity or  
5 alteration. Upon receipt of any such prescription, the pharmacist shall contact the  
6 prescriber to obtain the information needed to validate the prescription.

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

11 COST RECOVERY

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

16 DRUGS

17 13. **Oxycodone**, also sold under the brand name **OxyContin**, is a Schedule II controlled  
18 substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(N), and is a  
19 dangerous drug pursuant to Business and Professions Code section 4022.

20 FACTS

21 14. On or about February 17, 2009, Cardinal Health, a prescription drug supplier, notified  
22 Respondent Pharmacy, the Board and the DEA that they were suspending sales of controlled  
23 substances to Respondent Pharmacy because their controlled substances sales created an  
24 unreasonable risk for potential diversion. Respondent Pharmacy could not adequately justify  
25 controlled substances sales quantities.

26 15. In or about 2008, Respondent Lee entered into an arrangement with Dr. S.V., a  
27 dentist, to fill OxyContin prescriptions for patients of Dr. S.V. The usual arrangement was that  
28 Dr. S.V. would phone Respondent Pharmacy with the order for the drug, and then the following  
day the office manager for Dr. S.V. would bring the patients' prescriptions to Respondent  
Pharmacy, wait for the prescription to be prepared, pay cash for the drugs and take them with  
him.



1 THIRD CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct: Excessive Furnishing of Controlled Substances)

3 22. Respondent Fed-Rx Pharmacy and Respondent Lee are subject to disciplinary action  
4 under Code section 4301, subdivision (d), for the clearly excessive furnishing of controlled  
5 substances in violation of Health and Safety Code section 11153 (a), by dispensing 24,840 tablets  
6 of OxyContin prescriptions from one dentist, as more particularly described in paragraphs 14  
7 through 18, above.

8 DISCIPLINE CONSIDERATIONS

9 23. To determine the degree of discipline, if any, to be imposed on Respondent Fed-Rx  
10 Pharmacy and Respondent Lee, Complainant alleges that on or about April 28, 2004, in a prior  
11 action, the Board of Pharmacy issued Citation Number CI 2003-26183 to Respondent Fed-Rx  
12 Pharmacy and Citation Number CI 2003-26672 to Respondent Lee and ordered Respondent Fed-  
13 Rx Pharmacy to pay a fine of \$1,250.00 and ordered Respondent Lee to pay a fine of \$750.00.

14 24. The Citations were for the following violations:

15 (a) Section 4125 and 16 CCR 1711, for failing to establish a Quality Assurance  
16 program to assess medication errors;

17 (b) 16 CCR 1715, for failing to have a current Pharmacy Self-Assessment form on  
18 file in the pharmacy;

19 (c) Title 21, Code of Federal Regulations, section 1304.11, for failing to have a  
20 biennial inventory of all controlled substances;

21 (d) 16 CCR 1715.5, for failing to transmit California Utilization Review and  
22 Evaluation System (CURES) data as required.

23 Those Citations are now final and are incorporated by reference as if fully set forth.

24 PRAYER

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

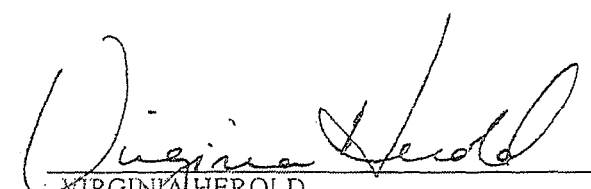
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1. Revoking or suspending Permit Number PHY 39339, issued to Fed-Rx Pharmacy;
2. Revoking or suspending Pharmacist License Number RPH 42633, issued to Daniel Inbong Lee;
3. Ordering Fed-Rx Pharmacy and Daniel Inbong Lee to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
4. Taking such other and further action as deemed necessary and proper.

DATED: 8/4/10



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

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