

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

In the Matter of the Accusation Against:

Case No. 4088

RSF PHARMACEUTICALS
1790 La Costa Meadows Dr., Ste. 103
San Marcos, CA 92078

Pharmacy License No. PHY 49086

Respondent.

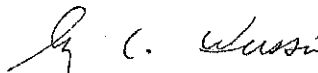
DECISION AND ORDER

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 February 7, 2013.

It is so ORDERED on January 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 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
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8

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

11 In the Matter of the Accusation Against:

12 **RSF PHARMACEUTICALS**
13 1790 LA COSTA MEADOWS DR., STE. 103
14 SAN MARCOS, CA 92078

15 Pharmacy License No. PIY 49086

16 **JASON KIM**
17 5947 A. HARRELL PLACE
FORT POLK, LA 71459

18 Pharmacist License No. RPH 55902

19 Respondents

Case No. 4088

OAH No. 2012030023

**STIPULATED SURRENDER AND
DISCIPLINARY ORDER AS TO
RSF PHARMACEUTICALS, INC.**

20
21 IT IS HEREBY STIPULATED AND AGREED by and between RSF Pharmaceuticals, Inc.
22 and the California Board of Pharmacy that the following matters are true:

23 PARTIES

24 1. Virginia Herold (Complainant) is the Executive Officer of the California Board of
25 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
26 by Kamala D. Harris, Attorney General of the State of California, by Sherry L. Ledakis, Deputy
27 Attorney General.

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1 2. Respondent RSF Pharmaceuticals, Inc., by and through its President, Jason S. Kim
2 (Respondents) is represented in this proceeding by attorney Scott Harris, whose address is: 8383
3 Wilshire Blvd. Ste. 830, Beverly Hills, CA 90211

4 3. On or about June 13, 2008, the California Board of Pharmacy issued Pharmacy
5 license No. PHY 49086 to RSF Pharmaceuticals, Inc., with Jason S. Kim, as Pharmacist-in-
6 Charge. The Pharmacy License was in full force and effect at all times relevant to the charges
7 brought herein, but expired on June 1, 2011, and has not been renewed.

8 JURISDICTION

9 4. Accusation No. 4088 was filed before the California Board of Pharmacy (Board),
10 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
11 and all other statutorily required documents were properly served on Respondent on November
12 16, 2011. A copy of Accusation No. 4088 is attached as exhibit A and incorporated herein by
13 reference.

14 ADVISEMENT AND WAIVERS

15 5. Respondent, through its President, Jason Kim, has carefully read, fully discussed with
16 counsel, and understands the charges and allegations in Accusation No. 4088. Respondent has
17 also carefully read, fully discussed with counsel, and understands the effects of this Stipulated
18 Surrender and Disciplinary Order.

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

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

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CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 4088, if proven at a hearing, would constitute cause for taking discipline against its pharmacy license.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline. Respondent hereby gives up its right to contest that cause for discipline exists based on those charges.

10. Respondent also understands that by signing this stipulation it enables the Board to issue an order accepting the surrender of Pharmacy License No. PHY 49086, issued to RSF Pharmaceuticals, Inc.

RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

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

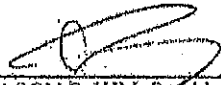
13. The parties understand and agree that facsimile copies of this Stipulated Surrender and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

1 6. If Respondent should ever apply or reapply for a new pharmacy license or
2 certification, or petition for reinstatement of a license by any health care licensing agency in the
3 State of California, all of the charges and allegations contained in Accusation No. 4088 shall be
4 deemed to be true, correct, and admitted by Respondent.

5 ACCEPTANCE

6 I, Jason S. Kim, have carefully read the above Stipulated Surrender of License and
7 Disciplinary Order and have fully discussed it with my attorney, Scott Harris. I understand the
8 stipulation and the effect it will have on the Pharmacy License. I enter into this Stipulated
9 Surrender of License and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
10 to be bound by the Decision and Disciplinary Order of the California Board of Pharmacy.

11
12 DATED: 30 Jun 2017


13 JASON S. KIM, President of
14 RSP PHARMACEUTICALS, INC.
Respondent

15 I have read and fully discussed with Jason S. Kim, on behalf of RSP Pharmaceuticals, Inc.,
16 the terms and conditions and other matters contained in the above Stipulated Surrender and

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Disciplinary Order. I approve its form and content.

DATED: *Nov. 21, 2012*

[Signature]
SCOTT HARRIS,
Attorney for Respondent

ENDORSEMENT

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

Dated: *Dec. 3, 2012*

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

[Signature]
SHERRY L. LEDAKIS
Deputy Attorney General
Attorneys for Complainant

RECEIVED
CALIFORNIA BOARD OF PHARMACY
NOV 23 2012

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10 **DEPARTMENT OF CONSUMER AFFAIRS**
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11 In the Matter of the Accusation Against:

Case No. 4088

12 **RSF PHARMACEUTICALS**
13 1790 LA COSTA MEADOWS DR., STE. 103
14 SAN MARCOS, CA 92078

A C C U S A T I O N

15 Pharmacy License No. PHY 49086

16 **JASON KIM**
17 1502 SANDBAR DRIVE
SAN MARCOS, CA 90078

18 Pharmacist License No. RPH 55902

19 Respondents.

20 Complainant alleges:

21 **PARTIES**

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

24 2. On or about June 13, 2008, the Board of Pharmacy issued Pharmacy License Number
25 PHY 49086 to RSF Pharmaceuticals (Respondent RSF). The Pharmacy License was in full force
26 and effect at all times relevant to the charges brought herein, but expired on June 1, 2011, and has
27 not been renewed.

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1 3. On or about August 24, 2004, the Board of Pharmacy issued Pharmacist License
2 Number RPH 55902 to Jason Kim (Respondent Kim). The Pharmacist License was in full force
3 and effect at all times relevant to the charges brought herein and will expire on October 31, 2011,
4 unless renewed. Respondent Kim has been the Pharmacist in Charge (PIC) for Respondent RSF
5 since June 13, 2008.

6 JURISDICTION

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

10 5. Section 4300 of the Code states:

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

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

15 (1) Suspending judgment.

16 (2) Placing him or her upon probation.

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

18 (4) Revoking his or her license.

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

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

26 6. Section 4032 defines "license" to include any license, permit, registration, certificate,
27 or exemption issued by the board.

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

STATUTORY PROVISIONS

1
2 8. Section 4033 (a) (1) of the Code states:

3 "Manufacturer" means and includes every person who prepares, derives,
4 produces, compounds, or repackages any drug or device except a pharmacy that
5 manufactures on the immediate premises where the drug or device is sold to the
6 ultimate consumer.

7 9. Section 4059 of the Code states, in pertinent part:

8 (a) A person may not furnish any dangerous drug, except upon the prescription
9 of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
10 pursuant to Section 3640.7. A person may not furnish any dangerous device, except
11 upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
12 naturopathic doctor pursuant to Section 3640.7.

13 (b) This section does not apply to the furnishing of any dangerous drug or
14 dangerous device by a manufacturer, wholesaler, or pharmacy to each other or to a
15 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
16 pursuant to Section 3640.7., or to a laboratory under sales and purchase records that
17 correctly give the date, the names and addresses of the supplier and the buyer, the
18 drug or device, and its quantity. This section does not apply to the furnishing of any
19 dangerous device by a manufacturer, wholesaler, or pharmacy to a physical therapist
20 acting within the scope of his or her license under sales and purchase records that
21 correctly provide the date the device is provided, the names and addresses of the
22 supplier and the buyer, a description of the device, and the quantity supplied.

23 10. Section 4081 of the Code states, in pertinent part:

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

29 11. Section 4126.5 of the Code states, in pertinent part:

30 (a) A pharmacy may furnish dangerous drugs only to the following:

31 (1) A wholesaler owned or under common control by the wholesaler from
32 whom the dangerous drug was acquired.

33 (2) The pharmaceutical manufacturer from whom the dangerous drug was
34 acquired.

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12. Section 4160 of the Code states, in pertinent part:

(a) A person may not act as a wholesaler of any dangerous drug or dangerous device unless he or she has obtained a license from the board.

13. 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:

...

(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.

....

14. Section 4342(a) of the Code states:

The board may institute any action or actions as may be provided by law and that, in its discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs that do not conform to the standard and tests as to quality and strength, provided in the latest edition of the United States Pharmacopoeia or the National Formulary, or that violate any provision of the Sherman Food, Drug and Cosmetic Law (Part 5 (commencing with Section 109875) of Division 104 of the Health and Safety Code).

15. Health and Safety Code section 11165 states, in pertinent part:

(d) For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance, the dispensing pharmacy or clinic shall provide the following information to the Department of Justice on a weekly basis and in a format specified by the Department of Justice:

(1) Full name, address, and the telephone number of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services, and the gender, and date of birth of the ultimate user.

16. Health and Safety Code section 11170 provides that no person shall prescribe, administer, or furnish a controlled substance for himself.

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FEDERAL REGULATIONS

17. Title 21, Code of Federal Regulations (CFR), section 1304.21, states in pertinent part:

(a) Every registrant required to keep records pursuant to §1304.03 shall maintain on a current basis a complete and accurate record of each such substance manufactured, imported, received, sold, delivered, exported, or otherwise disposed of by him/her, except that no registrant shall be required to maintain a perpetual inventory.

(c) Separate records shall be maintained by a registrant for each independent activity for which he/she is registered, except as provided in §1304.22(d).

18. CFR section 1304.22 states, in pertinent part:

Each person registered or authorized (by §1301.13(e) or §§1307.11-1307.13 of this chapter) to manufacture, distribute, dispense, import, export or conduct research with controlled substances shall maintain records with the information listed below.

(c) Records for dispensers and researchers. Each person registered or authorized to dispense or conduct research with controlled substances shall maintain records with the same information required of manufacturers pursuant to paragraph (a)(2)(i), (ii), (iv), (vii), and (ix) of this section. In addition, records shall be maintained of the number of units or volume of such finished form dispensed, including the name and address of the person to whom it was dispensed, the date of dispensing, the number of units or volume dispensed, and the written or typewritten name or initials of the individual who dispensed or administered the substance on behalf of the dispenser. In addition to the requirements of this paragraph, practitioners dispensing gamma-hydroxybutyric acid under a prescription must also comply with §1304.26.

19. CFR section 1306.04 states, in pertinent part:

(a) A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his 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. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of section 309 of the Act (21 U.S.C. § 829) and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.

1 (b) A prescription may not be issued in order for an individual practitioner to
2 obtain controlled substances for supplying the individual practitioner for the purpose
3 of general dispensing to patients.

4 COST RECOVERY

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

9 FACTS

10 21. At all times mentioned herein, Respondent RSF was registered with the Board to do
11 business as a retail pharmacy at 1790 La Costa Meadows Dr., Ste. 103, San Marcos, California.
12 At all times mentioned herein, the following two entities that are not licensed by the Board also
13 did business at the same location: RSF Pharmaceuticals, Inc., (RSF Manufacturing), which re-
14 packaged and/or re-labeled dangerous drugs and controlled substances; and SportPharm
15 Pharmaceuticals, Inc. (SportPharm), which owned software, marketing materials, logos, and a
16 client list of team physicians for professional and college sports teams, who regularly purchase
17 prescription medications, including controlled substances and dangerous drugs for treating the
18 team staff and athletes.

19 22. Prior to October of 2008, SportPharm was owned by a licensed California pharmacy.
20 In October of 2008, SportPharm was purchased by a Hong Kong corporation. The foreign
21 corporation that purchased SportPharm did not obtain Food and Drug Administration ("FDA"),
22 Drug Enforcement Administration ("DEA"), or California licenses at any time mentioned herein.
23 SportPharm was an unlicensed entity, yet operated as a broker or wholesaler of dangerous drugs,
24 controlled substances and compounded medications in California.

25 23. At all times mentioned herein, the mode of business between Respondent RSF, RSF
26 Manufacturing and SportPharm was as follows. RSF Pharmacy would purchase controlled
27 substances and dangerous drugs from a drug manufacturer or distributor/wholesaler. RSF
28 Pharmacy would then transfer these purchased drugs to RSF Manufacturing for labeling with the
SportPharm label. SportPharm would then ship the drugs to the purchasers.

1 24. SportPharm advertised the sale of prescription medications over the internet and
2 received orders for dangerous drugs and controlled substances from its clients. SportPharm
3 accepted and processed these orders via email or by telephone. Clients of SportPharm, who were
4 generally athletic trainers for national sports teams, called the toll free number for SportPharm or
5 sent an email to SportPharm, and thereby placed orders for dangerous drugs and controlled
6 substances. Orders were then transmitted from SportPharm to Respondent RSF. A staff
7 pharmacist from Respondent RSF would then call the SportPharm client, verify the prescription,
8 change it into an oral prescription, fill the order, send the filled prescription to SportPharm who
9 would prepare the invoice and ship the drugs to the clients. SportPharm is paid directly by the
10 client who ordered the prescription drugs.

11 25. SportPharm also ships repackaged bulk medications to non-licensed facilities, such as
12 sport team locations. These activities involving brokering and wholesaling prescription drugs
13 require a license issued by the Board, yet SportPharm is not licensed.

14 **Investigation**

15 26. On or about April 13, 2010, the Board received a complaint that SportPharm was
16 operating without the proper DEA, FDA and California licenses, and in violation of several
17 California laws. An investigation by the DEA and Board investigators ensued.

18 27. On or about May 24, 2010, the San Diego Field Division of the DEA received a
19 report that a team member of the San Diego Chargers had been arrested for controlled substance
20 violations. This arrest and media coverage of another NFL team suspected of controlled
21 substance violations prompted the DEA San Diego Field Division to conduct a review of the
22 DEA's Automated Records and Ordering System ("ARCOS")¹ and California's Controlled

23 ¹ The distribution of drugs by drug manufacturers and distributors to pharmacies,
24 physicians, and other registrants is monitored nationally through ARCOS. The Controlled
25 Substances Act of 1970 (Title 21 USC § 801 *et seq.*) requires manufacturers and distributors to
26 report transactions for controlled substances to the Attorney General of the United States, which
27 has been delegated to the Drug Enforcement Administration (DEA).

28 ARCOS is an automated, comprehensive drug reporting system that monitors the flow of
controlled substances from their point of manufacture, through commercial distribution channels,
to point of sale or distribution at the dispensing/retail level in hospitals, retail pharmacies,
teaching institutions, and through practitioners. The transactions are summarized into reports that
give investigators in federal and state government agencies information to identify the diversion
(continued...)

1 **Board Inspection of RSF**

2 30. On June 29, 2010, Inspectors for the Board inspected the premises of RSF. They
3 found packages of dangerous drugs and controlled substances that were labeled to indicate that
4 they had been returned to SportPharm at the La Costa Meadows address in San Marcos. As an
5 unlicensed entity, SportPharm, is not authorized to accept returned medications.

6 31. During their inspection, Board Inspectors reviewed compounding log formula
7 worksheets that showed expired drugs were used in the compounding of dangerous drugs and
8 controlled substances, thereby diluting or changing their strength and quality.

9 32. Controlled substances, and dangerous drugs furnished by Respondent RSF to
10 SportPharm to provide to its clients were repackaged and then sold by SportPharm in multiple
11 units, labeled with the SportPharm label, without any indication that Respondent RSF actually
12 furnished the drugs.

13 33. The records to track the flow of dangerous drugs and controlled substances through
14 the pharmacy of Respondent RSF revealed no written records to show that drugs had been
15 transferred from Respondent RSF to RSF Manufacturing and then to SportPharm. Between June
16 of 2009 and June of 2010, Respondent RSF directly transferred dangerous drugs and controlled
17 substances originally acquired from a wholesaler to Respondent RSF without any record of the
18 disposition. There were at least 113 controlled substance transactions from the wholesaler
19 detailing the direct transfer.

20 34. The labeling of dangerous drugs and controlled substances dispensed by Respondent
21 RSF contained no dosage or frequency instructions for the intended patients, but instead were
22 labeled to be taken, "as directed."

23 35. Respondent Kim admitted to Board Inspectors that Respondent RSF was doing
24 business as SportPharm and that SportPharm is not licensed as a pharmacy, wholesaler, broker or
25 repacker of drugs.

26 36. RSF Pharmacy acquired manufacturer's original stock drugs, and transferred them to
27 RSF Manufacturing for manipulation of the original stock product. However, RSF

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1 Manufacturing manipulated some but not all of the original stock drugs. The drugs that were not
2 manipulated were merely labeled with the SportPharm label and then shipped to the prescriber at
3 wholesale.

4 37. On or about June 30, 2011, Respondent RSF surrendered its DEA registration license
5 to dispense controlled substances.

6 **FIRST CAUSE FOR DISCIPLINE**

7 (Unauthorized Furnishing of Dangerous Drugs)

8 38. Respondent RSF and Respondent Kim are subject to disciplinary action for
9 unprofessional conduct under Code section 4301 (j) for violation of Code section 4126.5(a)
10 subdivisions (1) and (2), in that between June 2009 and June of 2010, Respondents furnished
11 dangerous drugs to RSF Manufacturing, a different manufacturer from whom the dangerous drugs
12 were originally purchased, as set forth above in paragraphs 21-37, which are incorporated by
13 reference.

14 **SECOND CAUSE FOR DISCIPLINE**

15 (Incomplete Record Keeping of the Purchase and Distribution of Dangerous Drugs)

16 39. Respondent RSF and Respondent Kim are subject to disciplinary action for
17 unprofessional conduct under Code section 4301 (j) for violation of Code section 4059(b), in that
18 between June 2009 and June of 2010, Respondents furnished controlled substances and dangerous
19 drugs without sales and purchase records that correctly gave the date, the names and addresses of
20 the supplier and the buyer, the drug or device, and/or its quantity, as set forth above in paragraphs
21 21-37, which are incorporated by reference.

22 **THIRD CAUSE FOR DISCIPLINE**

23 (Inadequate Recordkeeping)

24 40. Respondent RSF and Respondent Kim are subject to disciplinary action for
25 unprofessional conduct under Code section 4301 (j) for violation of Title 21, CFR, section
26 1304.21(a) and (c), in that between June 2009 and June of 2010, Respondents failed to maintain
27 on a current basis a complete and accurate record of each such substance manufactured, imported,
28 received, sold, delivered, exported, or otherwise disposed of, and that Respondents failed to

1 maintain separate records for each independent activity for which they were registered or
2 licensed, as set forth above in paragraphs 21-37, which are incorporated herein by reference.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Furnished Drugs Lacking in Quality or Strength)**

5 41. Respondent RSF and Respondent Kim are subject to disciplinary action for
6 unprofessional conduct under Code section 4301 (j) for violation of Code section 4342(a), in that
7 between June 2009 and June of 2010, Respondents compounded dangerous drugs with expired
8 ingredients, as set forth above in paragraph 21-37, which are incorporated herein by reference.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 **(Dispensing with Inaccurate Patient Information)**

11 42. Respondent RSF and Respondent Kim are subject to disciplinary action for
12 unprofessional conduct under Code section 4301 (j) for violation of Health and Safety Code
13 Section 11165(d)(1) and Title 21, CFR, section 1306.04(b), in that between June 2009 and June
14 of 2010, Respondents filled prescriptions for dangerous drugs and controlled substances written
15 by physicians for themselves as the named patients, for purposes of supplying the individual
16 physicians with drugs for general dispensing to their patients, as set forth above in paragraphs 21-
17 37, which are incorporated herein by reference.

18 **SIXTH CAUSE FOR DISCIPLINE**

19 **(Failed to Maintain Records For Three Years)**

20 43. Respondent RSF and Respondent Kim are subject to disciplinary action for
21 unprofessional conduct under Code section 4301 (j), for violation of Code section 4081(a), in that
22 between June 2009 and June of 2010, Respondents made at least 113 controlled substance
23 transactions without maintaining records of their disposition for at least three years, as set forth
24 above in paragraphs 21-37, which are incorporated herein by reference.

25 **SEVENTH CAUSE FOR DISCIPLINE**

26 **(Aiding and Abetting Unlicensed Activity)**

27 44. Respondent RSF and Respondent Kim are subject to disciplinary action for
28 unprofessional conduct under Code section 4301(o) for aiding and abetting SportPharm in

1 furnishing dangerous drugs and controlled substances without being licensed as a wholesaler or
2 otherwise to be authorized to do so, as set forth above in paragraphs 21-37, which are
3 incorporated herein by reference.

4 PRAYER

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

7 1. Revoking or suspending Pharmacist License Number RPH 55902, issued to Jason S.
8 Kim;

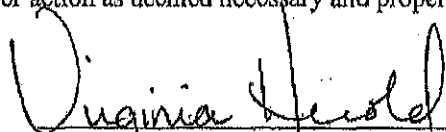
9 2. Ordering Jason S. Kim to pay the Board of Pharmacy the reasonable costs of the
10 investigation and enforcement of this case, pursuant to Business and Professions Code section
11 125.3;

12 3. Revoking or suspending Pharmacy License Number PHY 49086, issued to RSF
13 Pharmaceuticals;

14 4. Ordering RSF Pharmaceuticals to pay the Board of Pharmacy the reasonable costs of
15 the investigation and enforcement of this case, pursuant to Business and Professions Code section
16 125.3;

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

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19 DATED: 11/9/11



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

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