



California State Board of Pharmacy

1625 N. Market Blvd, N219, Sacramento, CA 95834
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BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY
DEPARTMENT OF CONSUMER AFFAIRS
GOVERNOR EDMUND G. BROWN JR.

November 22, 2013

David Meyers, President/CFO
Cathleen Meyers, Secretary
Meyers Pharmacy Inc.
dba De Soto Pharmacy
20914 Roscoe Blvd.
Canoga Park, CA 91304

Re: LETTER OF PUBLIC REPRIMAND
In the Matter of the Statement of Issues Against:
Meyers Pharmacy Inc. dba De Soto Pharmacy, PHY 50809
Case No. 4311

Dear Mr. David Meyers and Ms. Cathleen Meyers:

On August 30, 2012, the California State Board of Pharmacy, filed a Statement of Issues against your application for a community pharmacy permit.

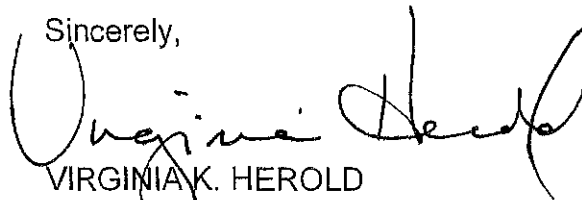
The Statement of Issues alleges that Meyers Pharmacy, dba as De Soto Pharmacy, of which you were both officers of the corporation under the previous pharmacy permit number PHY 32271, engaged in unprofessional conduct as set forth in an accusation filed on December 30, 2010, against that pharmacy permit under Business and Professions Code section 4081 and California Code of Regulations, title 16, section 1718. Specifically, between May 27, 2007 and April 15, 2009, the former pharmacy and former pharmacist-in-charge failed to take regular inventory of its controlled substances, and failed to maintain controlled substance inventory records on the premises.

On or about April 11, 2009, a pharmacy employee was viewed via video surveillance removing from pharmacy shelves and premises a 500 count bottle of Norco and taking it out to his vehicle. Around this same time, De Soto Pharmacy completed its inventory of Hydrocodone, Norco, and Vicodin, losses and reported the loss to police and the Federal Drug Enforcement Administration. They filed "Report of Theft or Loss of Controlled Substances" acknowledged losses of 43,000 tablets of Norco and 62,000 tablets of Vicodin ES on and between May 27, 2007 and April 15, 2009. The pharmacy technician was terminated from employment and separately disciplined by the board.

As new owners, the Board has decided that the charges remaining against Meyers Pharmacy, Inc., dba De Soto Pharmacy, PHY 50809 warrant a public reprimand.

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code section 495, the Board of Pharmacy issues this letter of public reprimand.

Sincerely,

A handwritten signature in black ink, appearing to read "Virginia K. Herold". The signature is fluid and cursive, with a large initial "V" and a long, sweeping tail.

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

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

In the Matter of the Accusation Against:

**MEYERS PHARMACY INC.
DBA DE SOTO PHARMACY;
JERRY MEYERS, President and
Pharmacist-in-Charge**
20914 Roscoe Blvd.
Canoga Park, CA 91304
Pharmacy Permit No. PHY 32271
and
JERRY MEYERS
20914 Roscoe Blvd.
Canoga Park, CA 91304
Pharmacist License No. RPH 24673

Respondents.

AND

In the Matter of the Statement of Issues
Against:

**MEYERS PHARMACY, INC.
DBA DE SOTO PHARMACY;
DAVID MEYERS, President/CFO
CATHLEEN MEYERS, Secretary**
Community Pharmacy Permit Application

Respondents.

Case No. 3662

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR
SURRENDER

Case No. 4311

STIPULATED SETTLEMENT FOR
PUBLIC REPRIMAND

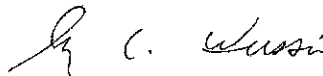
DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Surrender and Stipulated Settlement for Public Reprimand 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 November 27, 2013.

It is so ORDERED on November 22, 2013.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 DESIREE TULLENERS
Deputy Attorney General
4 State Bar No. 157464
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2578
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

10 In the Matter of the Accusation Against:

Case No. 3662

11 **MEYERS PHARMACY INC.**
12 **DBA DE SOTO PHARMACY;**
13 **JERRY MEYERS, President and**
Pharmacist-in-Charge
20914 Roscoe Blvd.
14 Canoga Park, CA 91304
Pharmacy Permit No. PHY 32271

OAH No. L-2011040729

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR
SURRENDER

15
16 and

17 **JERRY MEYERS**
20914 Roscoe Boulevard
18 Canoga Park, CA 91304
Pharmacist License No. RPH 24673

19 Respondents.
20

21 **AND**

22 In the Matter of the Statement of Issues
Against:

Case No. 4311

23 **MEYERS PHARMACY, INC.**
24 **DBA DE SOTO PHARMACY;**
DAVID MEYERS, President/CFO
25 **CATHLEEN MEYERS, Secretary**

STIPULATED SETTLEMENT FOR
PUBLIC REPRIMAND

26 **Community Pharmacy Permit Application**

27 Respondents.
28

1 In the interest of a prompt and speedy resolution of this matter, consistent with the
2 public interest and the responsibility of the Board of Pharmacy, of the Department of Consumer
3 Affairs, the parties to these related cases hereby agree to: (1) a Stipulated Settlement and
4 Disciplinary Order for Surrender in settlement of the Accusation filed against Respondent Meyers
5 Pharmacy Inc., dba De Soto Pharmacy, Pharmacy Permit No. PHY 32271 ("Respondent
6 Pharmacy"), and (2) a Stipulated Settlement for Public Reprimand in settlement of the Statement
7 of Issues granting the Application for Community Pharmacy Permit by Respondent Meyers
8 Pharmacy, Inc., dba De Soto Pharmacy; David Meyers, President/CFO and Cathleen Meyers,
9 Secretary, ("Applicant Meyers, Inc.") and the Order for Public Reprimand. This global
10 settlement shall hereafter be submitted to the Board for its approval and adoption as the final
11 disposition of Accusation No. 3662 against Respondent Pharmacy, and Statement of Issues No.
12 4311, against Applicant Meyers, Inc.

13 **PARTIES**

14 1. Virginia Herold (Complainant) is the Executive Officer of the Board of
15 Pharmacy. She brought these actions solely in her official capacity and is represented in these
16 matters by Kamala D. Harris, Attorney General of the State of California, by Desiree Tulleners,
17 Deputy Attorney General.

18 2. Respondent Pharmacy and Applicant Meyers, Inc. (collectively, "Respondent
19 and Applicant") are jointly and severally represented in this proceeding by attorney Herbert L.
20 Weinberg, McGuire Woods LLP, 1800 Century Park East, 8th Floor, Los Angeles, California
21 90067; (310) 315-8200.

22 3. On or about July 1, 1985, the Board of Pharmacy issued Pharmacist Permit No.
23 PHY 32271 to Meyers Pharmacy Inc. dba De Soto Pharmacy; Jerry Meyers, President and
24 Pharmacist-in-Charge (Respondent Pharmacy). The Pharmacy Permit was in full force and effect
25 at all times relevant to the charges brought in Accusation No. 3662, and will expire on July 1,
26 2013, unless renewed.

27 4. On or about October 12, 2011, the Board of Pharmacy received an application
28 for a Community Pharmacy Permit from Meyers Pharmacy, Inc., dba De Soto Pharmacy, with

1 David Meyers, president/CEO, and Cathleen Meyers, secretary, (Applicant Meyers, Inc.). On or
2 about October 4, 2011, David Meyers and Cathleen Meyers certified under penalty of perjury as
3 to the truthfulness of all statements, answers and representations in the application. The Board
4 denied the application of November 29, 2011. Applicant Meyers, Inc. appealed the denial on
5 April 19, 2012.

6 **JURISDICTION**

7 5. Accusation No. 3662 was filed before the Board of Pharmacy (Board),
8 Department of Consumer Affairs, and is currently pending against Respondent Pharmacy. The
9 Accusation and other statutorily required documents were properly served on Respondent
10 Pharmacy on or about January 5, 2011. Respondent Pharmacy timely filed its Notice of Defense
11 contesting the Accusation. A copy of Accusation No. 3662 is attached as Exhibit A, and
12 incorporated herein by reference.

13 6. Statement of Issues No. 4311 was filed before the Board of Pharmacy (Board),
14 Department of Consumer Affairs, and is currently pending against Applicant Meyers, Inc. The
15 Statement of Issues and other statutorily required documents were properly served on Applicant
16 Meyers, Inc. on or about September 13, 2012. A copy of Statement of Issues No. 4311 is
17 attached as Exhibit B, and incorporated herein by reference.

18 **ADVISEMENT AND WAIVERS**

19 7. Respondent Pharmacy has carefully read, fully discussed with counsel, and
20 understand, the charges and allegations in Accusation No. 3662. Respondents have also carefully
21 read, fully discussed with counsel, and understand, the effects of this Stipulated Settlement and
22 Disciplinary Order for Surrender, as applicable to its license.

23 8. Applicant Meyers, Inc. has carefully read, fully discussed with counsel, and
24 understands, the charges and allegations in Statement of Issues No. 4311. Applicant Meyers,
25 Inc., has also carefully read, fully discussed with counsel, and understands, the effects of this
26 Stipulated Settlement and Disciplinary Order for Surrender and Stipulated Settlement for Public
27 Reprimand, as applicable to the license to be issued thereto.

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CONTINGENCY

15. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent and Applicant understand and agree that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent, Applicant, or their counsel. By signing the stipulation, Respondent and Applicant understand and agree that they may not withdraw their 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 agreement as its Decision and Order, this Stipulated Settlement and Disciplinary Order for Surrender and Stipulated Settlement for Public Reprimand shall be of no force or effect, except for this paragraph, shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action against any party to this global stipulation by having considered this matter.

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

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

DISCIPLINARY ORDER

1. *IT IS HEREBY ORDERED* that the current pharmacist-in-charge for Respondent Pharmacy shall complete a course pre-approved by the Board related to the subject matter of records-keeping of controlled substances.

2. *IT IS FURTHER ORDERED* that Respondent Pharmacy shall pay the Board its costs of investigation and enforcement in the amount of \$5,500.00 prior to issuance of a new permit to Applicant Meyers, Inc.

3. *IT IS FURTHER ORDERED* that upon submission of proof of completion of the pre-approved course related to records-keeping of controlled substance and payment of costs

1 in the amount of \$5,500.00 satisfactory to the Board, Respondent Pharmacy shall surrender its
2 Pharmacy Permit No. PHY 32271 to the Board for the Board's formal acceptance.

3 4. The surrender of Respondent Pharmacy's Pharmacy Permit, and the acceptance
4 of the surrendered permit by the Board, shall constitute the imposition of discipline against
5 Respondent Pharmacy. This stipulation constitutes a record of discipline and shall become a part
6 of Respondent Pharmacy's license history with the Board.

7 5. Respondent Pharmacy shall lose all rights and privileges as a pharmacy in
8 California as of the date of the Board's receipt of the proof of completion of the above-referenced
9 course and payment of costs.

10 6. Respondent Pharmacy shall cause to be delivered to the Board all
11 documentation of its pharmacy permit issued by the Board, including any wall license certificate,
12 along with the submission of proof of completion of the above-reference course and payment of
13 costs.

14 7. *IT IS FURTHER ORDERED* that upon satisfactory completion of the above-
15 referenced requirements, the Board shall issue a Pharmacy Permit to Applicant Meyers, Inc.,
16 along with a Letter of Public Reprimand.

17 8. *IT IS FURTHER ORDERED* that the current pharmacist-in-charge of the
18 pharmacy under the new Pharmacy Permit to be issued to Applicant Meyers, Inc., shall complete
19 a self-assessment form from the Board's website on a quarterly basis for a period of three (3)
20 years from the effective date of the Decision and Order adopting this stipulation, and maintain a
21 copy of each self-assessment form on the premises of the pharmacy subject to inspection by the
22 Board.

23 9. *IT IS FURTHER ORDERED* that if Respondent Pharmacy fails to submit to the
24 Board satisfactory proof of completion of the above-referenced course and payment of costs in
25 the amount of \$5,500.00 within 180 days of the effective date of the Decision and Order adopting
26 this stipulation, then Pharmacy Permit No. PHY 32271 shall be deemed revoked, and the
27 application for Community Pharmacy Permit by Applicant Meyers, Inc. shall be deemed denied,
28 each without further notice or hearing.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order for Surrender and Stipulated Settlement for Public Reprimand and have fully discussed it with the authorized legal representatives of Respondent Pharmacy who understand the stipulation and the effect it will have on Pharmacy Permit No. PHY 32271. I am designated and authorized to enter into this Stipulated Settlement and Disciplinary Order for Surrender voluntarily, knowingly, and intelligently, and agree on behalf of Respondent Pharmacy that it will bound by the Decision and Order of the Board of Pharmacy.

DATED: _____

HERBERT L. WEINBERG
Designated Representative and Attorney for Respondent Pharmacy

I have carefully read the above Stipulated Settlement and Disciplinary Order for Surrender and Stipulated Settlement for Public Reprimand and have fully discussed it with my attorney, Herbert L. Weinberg. I understand the stipulation and the effect it will have on my Community Pharmacy Permit Application, and Pharmacy Permit. I enter into this Stipulated Settlement for Public Reprimand voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: _____

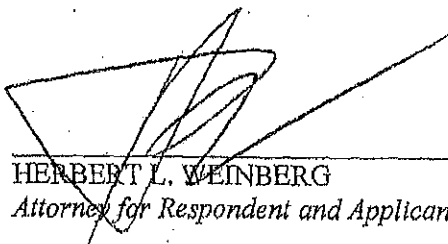
DAVID MEYERS, President/CFO

DATED: Oct 9, 2012

CATHLEEN MEYERS, Secretary
on behalf of
MEYERS PHARMACY, INC.,
dba DE SOTO PHARMACY
Applicant for Community Pharmacy Permit

1 I have read and fully discussed with Respondent Pharmacy and Applicant Meyers, Inc., the
2 terms and conditions and other matters contained in this Stipulated Settlement and Disciplinary
3 Order for Surrender and Stipulated Settlement for Public Reprimand. I approve its form and
4 content.

5 DATED: 10/9/2012

6
7 
8 HERBERT L. WEINBERG
9 *Attorney for Respondent and Applicant*

10 **ENDORSEMENT**

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

14 DATED: _____

15
16 KAMALA D. HARRIS
17 Attorney General of California
18 GREGORY J. SALUTE
19 Supervising Deputy Attorney General

20 _____
21 DESIREE TULLENERS
22 Deputy Attorney General
23 *Attorneys for Complainant*
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1 I have read and fully discussed with Respondent Pharmacy and Applicant Meyers, Inc., the
2 terms and conditions and other matters contained in this Stipulated Settlement and Disciplinary
3 Order for Surrender and Stipulated Settlement for Public Reprimand. I approve its form and
4 content.

5 DATED: _____
6


7 _____
8 HERBERT L. WEINBERG
9 *Attorney for Respondent and Applicant*

10 **ENDORSEMENT**

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

14 DATED: October 9, 2012
15

16 KAMALA D. HARRIS
17 Attorney General of California
18 GREGORY J. SALUTE
19 Supervising Deputy Attorney General

20 
21 DESIREE TULLENERS
22 Deputy Attorney General
23 *Attorneys for Complainant*
24
25
26
27
28

Date _____

David Meyers, President/CFO
Cathleen Meyers, Secretary
Meyers Pharmacy Inc.
dba De Soto Pharmacy
20914 Roscoe Blvd.
Canoga Park, CA 91304

Re: LETTER OF PUBLIC REPRIMAND
In the Matter of the Statement of Issues Against:
Meyers Pharmacy Inc. dba De Soto Pharmacy
Pharmacy Permit No. _____

Dear Mr. David Meyers and Ms. Cathleen Meyers:

On August 30, 2012, the California State Board of Pharmacy, filed a Statement of Issues against your application for a community pharmacy permit.

The Statement of Issues alleges that Meyers Pharmacy, dba as De Soto Pharmacy, of which you were both officers of the corporation under the previous pharmacy permit number PHY 32271, engaged in unprofessional conduct as set forth in an accusation filed on December 30, 2010, against that pharmacy permit under Business and Professions Code section 4081 and California Code of Regulations, title 16, section 1718. Specifically, between May 27, 2007 and April 15, 2009, the former pharmacy and former pharmacist-in-charge failed to take regular inventory of its controlled substances, and failed to maintain controlled substance inventory records on the premises.

On or about April 11, 2009, a pharmacy employee was viewed via video surveillance removing from pharmacy shelves and premises a 500 count bottle of Norco and taking it out to his vehicle. Around this same time, De Soto Pharmacy completed its inventory of Hydrocodone, Norco, and Vicodin, losses and reported the loss to police and the Federal Drug Enforcement Administration. They filed "Report of Theft or Loss of Controlled Substances" acknowledged losses of 43,000 tablets of Norco and 62,000 tablets of Vicodin ES on and between May 27, 2007 and April 15, 2009. The pharmacy technician was terminated from employment and separately disciplined by the board.

As new owners, the Board has decided that the charges remaining against Meyers Pharmacy, Inc., dba De Soto Pharmacy, PHY _____ warrant a public reprimand.

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code section 495, the Board of Pharmacy issues this letter of public reprimand.

Sincerely,

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

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EXHIBIT A
Accusation No. 3662

1 EDMUND G. BROWNE, JR.
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 DESIREE TULLENERS
Deputy Attorney General
4 State Bar No. 157464
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2578
6 Facsimile: (213) 897-2804
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 3662

13 **MEYERS PHARMACY INC.**
dba **DE SOTO PHARMACY;**
14 Jerry Meyers, President and Pharmacist-In-
Charge
20914 Roscoe Boulevard
Canoga Park, CA 91304

ACCUSATION

15 Pharmacy Permit No. PHY 32271,

16 and

17 **JERRY MEYERS**
20914 Roscoe Blvd.
Canoga Park, CA 91304

18 Pharmacist License No. RPH 24673

19 Respondents.
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21

22 Complainant alleges:

23 **PARTIES**

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

26 **De Soto Pharmacy Permit**

27 2. On or about July 1, 1985, the Board issued Pharmacy Permit No. PHY 32271 to
28 Meyers Pharmacy Inc. doing business as De Soto Pharmacy; Jerry Meyers, President and

1 Pharmacist-In-Charge (Respondent De Soto Pharmacy). The Pharmacy Permit was in full force
2 and effect at all times relevant to the charges brought herein and will expire on July 1, 2011,
3 unless renewed.

4 Pharmacist License

5 3. On or about August 12, 1966, the Board issued Pharmacist License No. RPH 24673
6 to Jerry Meyers (Respondent Meyers). The Pharmacist License was in full force and effect at all
7 times relevant to the charges brought herein and will expire on November 30, 2011, unless
8 renewed.

9 JURISDICTION

10 4. This Accusation is brought before the Board under the authority of the following
11 laws. All section references are to the Business and Professions Code unless otherwise indicated.

12 STATUTORY PROVISIONS

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

17 6. Section 4081 states:

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

27 ///

28 ///

1 (b) The owner, officer, and partner of a pharmacy, wholesaler, or veterinary food-animal
2 drug retailer shall be jointly responsible, with the pharmacist-in-charge or designated
3 representative-in-charge, for maintaining the records and inventory described in this section.

4 (c) The pharmacist-in-charge or designated representative-in-charge shall not be
5 criminally responsible for acts of the owner, officer, partner, or employee that violate this section
6 and of which the pharmacist-in-charge or designated representative-in-charge had no knowledge,
7 or in which he or she did not knowingly participate."

8 7. Section 4300, subdivision (a), states that "[e]very license issued may be suspended or
9 revoked."

10 8. Section 4301 states, in pertinent part:

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

14
15 (c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
16 violation of or conspiring to violate any provision or term of this chapter or of the applicable
17 federal and state laws and regulations governing pharmacy, including regulations established by
18 the board or by any other state or federal regulatory agency. . . ."

19 REGULATORY PROVISIONS

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

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

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

26 COST RECOVERY

27 10. Section 125.3 states, in pertinent part, that the Board may request the administrative
28 law judge to direct a licensee found to have committed a violation or violations of the licensing

1 act to pay a sum n() exceed the reasonable costs of the inv()igation and enforcement of the
2 case.

3 CAUSE FOR DISCIPLINE

4 *(Failure to Take Inventories and Maintain Inventory Records)*

5 11. Respondents are subject to disciplinary action under section 4301, subdivision (o), on
6 the grounds of unprofessional conduct, for violating section 4081 and California Code of
7 Regulations, title 16, section 1718, in that, on and between May 27, 2007, and April 15, 2009,
8 Respondents failed to take regular inventory of its controlled substances and failed to maintain
9 controlled substance inventory records on the premises. The circumstances are as follows:

10 a. In or about April 2009, Respondents initiated an internal pharmacy investigation
11 regarding pharmacy losses.

12 b. On or about April 11, 2009, a pharmacy employee was viewed via video surveillance
13 removing from pharmacy shelves and premises a 500 count bottle of Norco and taking it out to
14 his vehicle.

15 c. On or about April 19, 2009, De Soto Pharmacy completed its inventory of
16 Hydrocodone, Norco and Vicodin, losses and reported the loss to police and the Federal Drug
17 Enforcement Administration. Respondents' filed "Report of Theft or Loss of Controlled
18 Substances" acknowledged losses of 43,000 tablets of Norco and 62,000 tablets of Vicodin BS,
19 on and between May 27, 2007 and April 15, 2009.

20 d. On or about April 20, 2009, Respondents filed a police report for the pharmacy
21 losses.

22 PRAYER

23 *WHEREFORE*, Complainant requests that a hearing be held on the matters herein alleged,
24 and that following the hearing, the Board issue a decision:

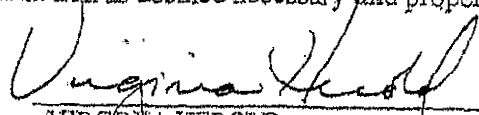
25 1. Revoking or suspending Pharmacy Permit No. PHY 32271, issued to Meyers
26 Pharmacy Inc. doing business as De Soto Pharmacy; Jerry Meyers, President and Pharmacist-In-
27 Charge;

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2. Revoke or suspending Pharmacist License No. H 24673, issued to Jerry Meyers;
3. Ordering De Soto Pharmacy and Jerry Meyers to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
4. Taking such other and further action as deemed necessary and proper.

DATED: 12/30/10



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

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 DESIREE TULLENERS
Deputy Attorney General
4 State Bar No. 157464
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2578
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

11 In the Matter of the Statement of Issues
12 Against:
13 **MEYERS PHARMACY, INC., dba**
14 **DE SOTO PHARMACY;**
15 David Meyers, president/CFO
16 Cathleen Meyers, secretary
17 **Community Pharmacy Permit Application**
18 Respondent.

Case No. 4311
OAH No. L-2011040729
STATEMENT OF ISSUES

19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
22 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
23 2. On or about October 12, 2011, the Board of Pharmacy, Department of Consumer
24 Affairs received a Community Pharmacy Permit Application from Meyers Pharmacy, Inc., dba
25 De Soto Pharmacy, with David Meyers, president/CEO, and Cathleen Meyers, secretary,
26 (Respondent Pharmacy). The designated pharmacist-in-charge is Susan Rado. On or about
27 October 4, 2011, David Meyers and Cathleen Meyers certified under penalty of perjury as to the
28 truthfulness of all statements, answers, and representations in the application. The Board denied

1 the application on November 29, 2011. Respondent Pharmacy appealed the denial of the
2 application on April 19, 2012.

3 JURISDICTION

4 3. This Statement of Issues is brought before the Board of Pharmacy (Board),
5 Department of Consumer Affairs, under the authority of the following laws. All section
6 references are to the Business and Professions Code unless otherwise indicated.

7 This Statement of Issues is brought before the Board, under the authority of the following laws.

8 4. Business and Professions Code section 480, subdivision (a)(3), states:

9 "(a) A board may deny a license regulated by this code on the grounds that the
10 applicant has one of the following:

11 (3)(A) Done any act which if done by a licentiate of the business or profession
12 in question, would be grounds for suspension or revocation of license.

13 (B) The board may deny a license pursuant to this subdivision only if the
14 crime or act is substantially related to the qualifications, functions or duties of the business or
15 profession for which application is made."

16 5. California Code of Regulations, title 16, section 1770, states:

17 "For the purpose of denial, suspension, or revocation of a personal or facility license
18 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
19 crime or act shall be considered substantially related to the qualifications, functions or duties of a
20 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
21 licensee or registrant to perform the functions authorized by his license or registration in a manner
22 consistent with the public health, safety, or welfare."

23 CAUSE FOR DENIAL OF APPLICATION

24 *(Acts Done by Licentiate)*

25 6. Respondent's application is subject to denial under section 480, subdivision (a)(3),
26 in that, Respondent engaged in acts which, if done by a licentiate, would constitute grounds for a
27 suspension or revocation of license. The circumstances are as follows:

28 a. On or about October 12, 2011, the Board of Pharmacy, Department of
Consumer Affairs received a Community Pharmacy Permit Application from Meyers Pharmacy,
Inc., dba De Soto Pharmacy, with David Meyers, president/CEO, and Cathleen Meyers,
secretary, (Respondent Pharmacy). The designated pharmacist-in-charge is Susan Rado.

