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

11 In the Matter of the Accusation Against:

Case No. 3801

12  
13 **GULF COAST PHARMACEUTICALS, INC.**  
995 North Halstead Road  
14 Ocean Springs, MS 39564

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

15 **Permit No. OSD 4567**

16 **KENNETH BRYAN RITCHEY**  
17 75806 Overseas Hwy.  
Islamorada, FL 33036

18 **Certificate No. EXC 20162**

19 Respondents.  
20

21 Complainant alleges:

22 **PARTIES**

- 23 1. Virginia Herold (Complainant) brings this Accusation solely in her official  
24 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
25 2. On or about December 30, 2005, the Board of Pharmacy issued Wholesale Permit  
26 Number OSD 4567 to Gulf Coast Pharmaceuticals, Inc., with Kenneth Ritchey as President  
27 (Respondents). The Wholesale Permit was in full force and effect at all times relevant to the  
28 charges brought herein and will expire on December 1, 2010, unless renewed.

3. On or about March 25, 2009, the Board of Pharmacy issued Certificate Number EXC 20162 to Kenneth Ritchey to act as the designated representative in Florida for Gulf Coast Pharmaceuticals, Inc.

## JURISDICTION

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

5. Section 4300 of the Code states:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

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

(1) Medical or psychiatric evaluation.

(2) Continuing medical or psychiatric treatment.

(3) Restriction of type or circumstances of practice.

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

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

(6) Random fluid testing for alcohol or drugs.

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

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

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

6 6. Section 4301 of the Code states in pertinent part:

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

10 (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.

11 (n) The revocation, suspension, or other discipline by another state of a  
12 license to practice pharmacy, operate a pharmacy, or do any other act for which a  
license is required by this chapter.

13 (o) Violating or attempting to violate, directly or indirectly, or assisting in  
14 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  
15 pharmacy, including regulations established by the board or by any other state or  
federal regulatory agency.

16 (s) The clearly excessive furnishing of dangerous drugs by a wholesaler  
17 to a pharmacy that primarily or solely dispenses prescription drugs to patients of  
long-term care facilities. Factors to be considered in determining whether the  
18 furnishing of dangerous drugs is clearly excessive shall include, but not be limited to,  
the amount of dangerous drugs furnished to a pharmacy that primarily or solely  
19 dispenses prescription drugs to patients of long-term care facilities, the previous  
ordering pattern of the pharmacy, and the general patient population to whom the  
20 pharmacy distributes the dangerous drugs. That a wholesaler has established, and  
employs, a tracking system that complies with the requirements of subdivision (b) of  
21 Section 4164 shall be considered in determining whether there has been a violation of  
this subdivision. This provision shall not be interpreted to require a wholesaler to  
22 obtain personal medical information or be authorized to permit a wholesaler to have  
access to personal medical information except as otherwise authorized by Section 56  
23 and following of the Civil Code.

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

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1 **DRUGS**

2 8. "Tramadol" is a generic of Ultram and is a dangerous drug as defined by Business  
3 and Professions Code section 4022.

4 9. "Carisoprodol" is a generic of Soma and is a dangerous drug as defined by  
5 Business and Professions Code section 4022.

6 10. "Butalbital/APAP/Caffeine" also known as Fioricet is a schedule III controlled  
7 substance as designated by Health and Safety Code section 11056(c)(3).

8 **CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct )**

10 11. Respondent Gulf Coast Pharmaceuticals, Inc., and Kenneth Ritchey (Respondents)  
11 are subject to disciplinary action under section 4301(j), (n), (o) and (s), for unprofessional  
12 conduct in that in on or about January 20, 2010. *In the Matter of the Complaint Against: Gulf*  
13 *Coast Pharmaceuticals* (99-W-2139), Before the State Board of Pharmacy State of Oklahoma;  
14 Case No. 957, Respondent's license was revoked for failure to follow Oklahoma's laws  
15 pertaining to the sale of dangerous drugs without having a monitoring program in place. A true  
16 and correct copy of the Board's Decision is attached hereto as Exhibit A. The circumstances are  
17 as follows:

18 12. On or about August 6 and 24, 2009, the Oklahoma Board of Pharmacy subpoenaed  
19 records from Gulf Coast Pharmaceuticals to determine if Respondent was shipping Tramadol,  
20 Butalbital/APAP/Caffeine (generic Fioricet) and Carisoprodol into the State of Oklahoma. The  
21 records obtained by the Oklahoma Board showed the following:

22 a. Gulf Coast Pharmaceuticals did business with Elk River Pharmacy from December 5,  
23 2008, through June 12, 2009. During that time, Gulf Coast Pharmaceuticals and Elk River  
24 Pharmacy conducted eighty-three (83) transactions for the sale of 13,832,500 dosage units of  
25 Carisoprodol, Tramadol, and Butalbital/APAP/Caffeine by Gulf Coast Pharmaceuticals to Elk  
26 River Pharmacy. Gulf Coast Pharmaceuticals used forty-eight (48) invoices to sell the drugs to  
27 Elk River Pharmacy at a cost of \$730,815.00, excluding shipping costs.

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1 b. Elk River Pharmaceuticals, Inc. purchased the following from Gulf Coast  
2 Pharmaceuticals:

3 Butalbital/APAP/Caffeine	898,000 tablets
4 Carisoprodol 350mg	6,688,500 tablets
5 Tramadol 50 mg.	6,246,000 tablets

6 c. During a three-day span, December 9-11, 2008, Gulf Coast Pharmaceuticals, Inc.,  
7 shipped a total of 1,695,000 dosage units of Carisoprodol, Tramadol, and  
8 Butalbital/APAP/Caffeine to Elk River Pharmacy with a cost to Elk River Pharmacy of  
9 \$69,438.00.

10 d. The records also showed that a large number of the same medications were shipped to  
11 Eagle RX and White Eagle Distribution located at 111 White Eagle Drive in Ponca City, OK.  
12 White Eagle RX is a tribal pharmacy that is licensed by the Ponca Tribe.

13 e. During the six (6) week period of June 18, 2009 to July 30, 2009, Gulf Coast  
14 Pharmaceuticals, Inc., made sales to White Eagle Pharmacy totaling 2,208,000 dosage units of  
15 Carisoprodol, Tramadol, and Butalbital/APAP/Caffeine. Gulf Coast Pharmaceuticals, Inc., used  
16 thirteen (13) invoices to sell the drugs to White Eagle Pharmacy at a cost of \$250,470.00,  
17 excluding shipping.

18 f. White Eagle Pharmacy purchased the following from June 18, 2009, to July 30, 2009:

19 Butalbital/APAP/Caffeine	275,000 tablets
20 Carisoprodol 350 mg	1,458,000 tablets
21 Tramadol 50 mg.	475,000 tablets

22 g. Neither Elk River Pharmacy nor White Eagle Pharmacy purchased any other drugs from  
23 Gulf Coast Pharmaceuticals, Inc.

24 h. Gulf Coast Pharmaceuticals, Inc., admitted that it did not have a "suspicious order  
25 monitoring program or a plan for diversion prevention" which meets the requirements of the  
26 Oklahoma Board Rules. Gulf Coast Pharmaceuticals, Inc., also admitted that it did not have a  
27 method to determine the type of clients it does business with (i.e., retail, hospital, internet, etc.).

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1 **PRAYER**

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

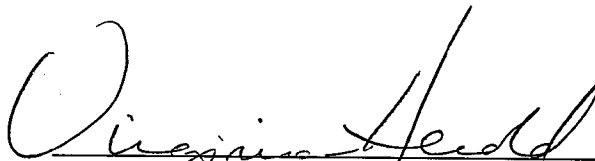
4 1. Revoking or suspending Wholesale Permit Number OSD 4567, issued to Gulf  
5 Coast Pharmaceuticals, Inc.;

6 2. Revoking or suspending Certificate Number EXC 20162 to Kenneth Ritchey, as  
7 the designated representative of Gulf Coast Pharmaceuticals;

8 3. Ordering Gulf Coast Pharmaceuticals, Inc. and Kenneth Ritchey to pay the Board  
9 of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to  
10 Business and Professions Code section 125.3; and,

11 4. Taking such other and further action as deemed necessary and proper.  
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13  
14 DATED: 1/14/11



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

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Exhibit A  
(Decision)