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

In the Matter of the Accusation Against: OLADIMEJI FALEMI aka DIMEJI FALEMI 21707 Oakfort Avenue Carson, CA 90745 Pharmacist License No. RPH 36945 Respondent.	Case No. 3158 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about July 19, 1982, the Board issued Pharmacist License No. RPH 36945 to Oladimeji Falemi aka Dimeji Falemi (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2009, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless

otherwise indicated.

STATUTORY PROVISIONS

4. Section 4300 of the Business and Professions Code (Code) provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.

5. Section 490 states:

"A Board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under provisions of Section 1203.4 of the Penal Code."

6. Section 492 states:

"Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with Section 23249.50) of Division 11 of Vehicle Code, shall not prohibit any agency established under Division 2 (commencing with Section 500) of this code, or any other initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest."

7. Section 493 states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon

the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question."

8. Section 4231 of the Code states:

"The board shall not issue any renewal certificate unless the applicant submits proof satisfactory to the board that he or she has successfully completed approved courses of continuing pharmaceutical education during the two years preceding the application for renewal. The continuing education required by this article shall consist of the number of clock hours, not to exceed 30 clock hours, designated by regulation adopted by the board. This section shall not apply to licensees during the first two years immediately following their graduation from a college of pharmacy or department of pharmacy of a university recognized by the board."

9. Section 4301 of the Code states:

"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:

. . . .

(g) Knowingly or signing any certificate or other document that falsely represents the existence or non existence of a state of facts.

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcohol beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

. . . .

(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

. . . .

(p) Actions or conduct that would have warranted denial of a license."

10. California Code of Regulations, title 16, section 1732.5, states:

(a) "Except as provided in Section 4234 of the Business and Professions Code and Section 1732.6 of the Division, each applicant for renewal of a pharmacist license submit proof satisfactory to the board, that the applicant has completed 30 hours continuing education in the prior 24 months."

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

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

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

FIRST CAUSE OF ACTION

(Knowingly Signing False Certificate)

13. Respondent is subject to disciplinary action under sections 4301, subdivision (g) of the Code, on the grounds of unprofessional conduct, in that Respondent knowingly signed a false certificate as follows:

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a. On or about October 1, 2007, Respondent signed his October, 2007, renewal application declaring under penalty of perjury that he completed 30 hours of continuing education during the last renewal period, November 1, 2005-October 31, 2007.

b. As evidence of Respondent's completion of his continuing education requirement, he submitted completion certificates form seminars he attended in Nigeria from the Pharmacists Council of Nigeria. The Pharmacists Council of Nigeria is not accredited by the Accreditation Council for Pharmacy (ACPE). The Board does not accept continuing education hours not accredited by ACPE.

SECOND CAUSE OF ACTION

(Failed to Complete Continuing Education)

14. Respondent is subject to disciplinary action under sections 4231, subdivision (a) of the Code, as defined in California Code of Regulations, title 16, section 1732.5 in that Respondent has not completed his 30 hours of continuing education. Complainant now refers to and incorporates all the allegations of paragraph 13, subparagraph a, as though set forth fully.

THIRD CAUSE OF ACTION

(Conviction of Substantially Related Crimes)

15. Respondent is subject to disciplinary action under sections 490, 4301, subdivision (k) of the Code, on the grounds of unprofessional conduct, as defined in California Code of Regulations, title 16, section 1770 in that Respondent has been convicted of crimes that are substantially related to the qualifications, functions or duties of a licensed pharmacist as follows:

a. On or about October 18, 1991, Respondent was convicted by the Court on a plea of guilty for violating one count of Vehicle Code section 23151, subdivision (a), a misdemeanor (driving under the influence), in the Superior Court of California, County of Sacramento, Case No. 91T06993 entitled *The People of the State of California v. Oladimeji Falemi.* On or about March 24, 1992, Respondent failed to complete a First Offender Program and was found in violation of his probation. He was re-referred to the First Offender Program.

b. On or about March 28, 2001, Respondent was convicted by the Court on a plea of no contest for violating one count of Vehicle Code section 23152, subdivisions (a), misdemeanor (driving under the influence), in the Superior Court of California, County of Sacramento, Case No. 01T01275 entitled *The People of the State of California v. Oladimeji Falemi.* Respondent was sentenced to the First Offender Program and given three years probation, a fine, and two days in jail. On or about August 28, 2001, Respondent failed to complete a First Offender Program and was sentenced to fifteen days in jail. He was re-referred to the First Offender Program.

c. On or about October 22, 2002, Respondent was convicted by the Court on a plea of no contest for violating one count of Vehicle Code section 23103.5, a misdemeanor (reckless driving), in the Superior Court of California, County of Sacramento, Case No. 02T03404 entitled *The People of the State of California v. Oladimeji Falemi.* Respondent was sentenced to ten days in jail and given three years probation.

d. On or about July 10, 2006, Respondent was convicted by the Court on a plea of no contest for violating one count of Vehicle Code section 23103, (reckless driving), in the Superior Court of California, County of Los Angeles, Antelope Valley Courthouse, Case No. 5AT02838 entitled *The People of the State of California v. Dimeji Falemi.* Respondent was placed on three years probation. As of May 29, 2008, Respondent is wanted on a bench warrant for failure to appear in regards to a violation of probation.

e. The circumstances surrounding the conviction are that on or about April 4, 2005, Respondent driving his vehicle ran into the back of a big rig truck. Officers from the California Highway Patrol approached Respondent's car and smelled a strong odor of alcohol emitting from Respondent. Respondent was unable to perform the Field Sobriety Test. He refused a blood alcohol test.

FOURTH CAUSE OF ACTION

(Alcohol Abuse)

16. Respondent is subject to disciplinary action under sections 4301, subdivision (h) of the Code, on the grounds of unprofessional conduct. Complainant now refers

to and incorporates all the allegations of paragraph 15, subparagraphs a through e, as though set forth fully.

FIFTH CAUSE OF ACTION

(Committed Acts Which Would Have Warranted Denial of License)

16. Respondent is subject to disciplinary action under sections 4301, subdivision (p) of the Code, on the grounds of unprofessional conduct. Complainant now refers to and incorporates all the allegations of paragraph 15, subparagraphs a through e, as though set forth fully.

PRAYER

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

1. Revoking or suspending the Pharmacist license No. RPH 36945, issued to Oladimeji Falemi;

2. Ordering Oladimeji Falemi to pay the California State Board of Pharmacy the reasonable costs of the investigation and enforcement of this case; pursuant to Business and Professions Code section 125.3;

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

DATED: 10/16/08

VIRGINIA K. HEROLD
Executive Officer
California State Board of Pharmacy
State of California
Complainant

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jz(7/9/07)