

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 SCOTT J. HARRIS, State Bar No. 238437
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-2554
Facsimile: (213) 897-2804

6 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. 3177

11 LAWRENCE STEVEN BELL
12 150 Hillview Avenue
Santa Barbara, CA 93003
13 Pharmacist License No. RPH 40966

A C C U S A T I O N

14 Respondent.

15
16 Complainant alleges:

17 PARTIES

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

21 2. On or about August 12, 1987, the Board issued Pharmacist License
22 Number RPH 40966 to Lawrence Steven Bell (Respondent). The Pharmacist License was in full
23 force and effect at all times relevant to the charges brought herein and will expire on March 31,
24 2009, unless renewed.

25 JURISDICTION

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

1 4. Section 4300 of the Code provides, in pertinent part, that the Board is
2 permitted to take disciplinary action to suspend or revoke a license issued by the Board.

3 5. Section 4301 of the Code states:

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

8 ...

9 "(f) The commission of any act involving moral turpitude, dishonesty, fraud,
10 deceit, or corruption, whether the act is committed in the course of relations as a licensee or
11 otherwise, and whether the act is a felony or misdemeanor or not.

12 ...

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

18 ...

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

21 ...

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

26 6. Section 4060 of the Code states:

27 "No person shall possess any controlled substance, except that furnished to a
28 person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or

1 naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a
2 certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section
3 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to
4 Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or
5 clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This
6 section shall not apply to the possession of any controlled substance by a manufacturer,
7 wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian,
8 naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in
9 stock in containers correctly labeled with the name and address of the supplier or producer.

10 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner,
11 a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs
12 and devices."

13 7. Health and Safety Code section 11170 states:

14 "No person shall prescribe, administer, or furnish a controlled substance for
15 himself."

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

20 DANGEROUS DRUGS

21 9. "Tussionex" is the brand name for Hydrocodone 10mg/Chlorpheniramine
22 8mg, and is categorized as a controlled substance pursuant Health and Safety Code section
23 11056, subdivision (e)(4), and a "dangerous drug" pursuant to Business and Professions Code
24 section 4022.

25 10. "Marijuana" is categorized as a controlled substance pursuant to Health
26 and Safety Code section 11054, subdivision (d)(13), and a "dangerous drug" pursuant to
27 Business and Professions Code section 4022.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Dishonesty, Fraud or Deceit)

3 11. Respondent is subject to disciplinary action under Code section 4301,
4 subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts of
5 dishonesty, fraud or deceit by misappropriating gift cards of value from his place of
6 employment. Specifically, Respondent was employed as the Pharmacist-in-Charge of Ralph's
7 Store #680. As an incentive, Ralph's was giving away \$20.00 gift cards to customers who
8 transferred or brought in new prescriptions to the pharmacy. Store policy only permitted one gift
9 card per customer, and were not permitted for refill prescriptions. An internal investigation by
10 Ralph's revealed that Respondent and a pharmacy technician misappropriated ten (10) \$20.00
11 gift cards (\$200.00) on or about March 30, 2007. Respondent admitted to using five (5) of the
12 misappropriated gift cards; and, a Ralph's internal investigation tracked six (6) of the ten (10)
13 gift cards to Respondent at other Ralph's store locations. Further, Ralph's records indicated that
14 over a four (4) month period between January 19, 2007 and March 30, 2007, Respondent spent a
15 total of \$650.00 in gift cards.

16 SECOND CAUSE FOR DISCIPLINE

17 (Violation of Statutes Regulating Controlled Substances)

18 12. Respondent is subject to disciplinary action under Code section 4301,
19 subdivision (j), on the grounds of unprofessional conduct, in that on or about April 14, 2007,
20 Respondent possessed two controlled substances for which he did not have a prescription.
21 Specifically, Respondent possessed Tussionex Suspension, which was prescribed to his
22 daughter, and Marijuana, in violation of Code section 4060. The circumstances are as follows:
23 a. On or about April 15, 2007, Respondent was taken to the hospital after
24 becoming ill while working as the Pharmacist-in-Charge at Ralph's Store #680. The Santa
25 Barbara Fire Department requested assistance from the Santa Barbara Police Department at that
26 time. During a subsequent interview with a Santa Barbara Police Department Officer,
27 Respondent admitted to taking a teaspoon of his daughter's Tussionex Suspension and smoking
28 marijuana the night before, on April 14, 2007.

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THIRD CAUSE FOR DISCIPLINE

(Administration of Controlled Substances)

13. Respondent is subject to disciplinary action under Code section 4301, subdivision (h) and (j), on the grounds of unprofessional conduct, for administering a controlled substance to himself, specifically, Tussionex Suspension and Marijuana, as more fully discussed in paragraph 12, above, in violation of Health and Safety Code section 11170.

FOURTH CAUSE FOR DISCIPLINE

(Violation of Chapter)

14. Respondent is subject to disciplinary action under Code section 4301, subdivision (o), on the grounds of unprofessional conduct, in that Respondent violated or attempted to violate, and/or, assisted in or abetted the violation of the laws and regulations governing pharmacy by misappropriating gift cards from his place of employment, and possessing and administering controlled substances to himself, as more fully discussed in paragraphs 11 through 13, above, which are incorporated herein as set forth in whole.

FIFTH CAUSE FO DISCIPLINE

(Unprofessional Conduct)

15. Respondent is subject to disciplinary action under Code section 4301, in that Respondent committed unprofessional conduct, as more fully discussed in paragraphs 11 through 14, above, which are incorporated herein as set forth in whole.

PRAYER

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

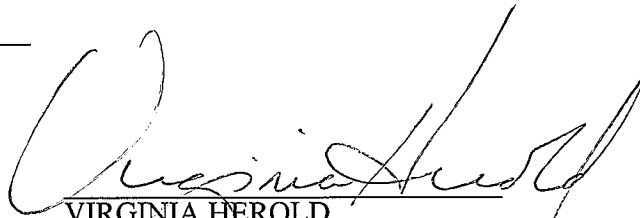
- 1. Revoking or suspending Pharmacist License Number RPH 40966, issued to Lawrence Steven Bell;
- 2. Ordering Lawrence Steven Bell to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 12/24/08



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

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