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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. 3506

13 **LOUIS JOSEPH YERED, JR.**

20 Calle Cataluna
14 Camarillo, CA 93012

ACCUSATION

15 Pharmacist License No. RPH 37006

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about November 25, 1981, the Board of Pharmacy issued Pharmacist License
23 No. RPH 37006 to Louis Joseph Yered, Jr. (Respondent). The Pharmacist License was in full
24 force and effect at all times relevant to the charges brought herein and will expire on June 30,
25 2010, unless renewed.

26 **JURISDICTION**

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

STATUTORY PROVISIONS

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

6 5. Section 490 provides, in pertinent part, that a board may suspend or revoke a license
7 on the ground that the licensee has been convicted of a crime substantially related to the
8 qualifications, functions, or duties of the business or profession for which the license is issued.

9 6. Section 4060 provides that no person shall possess any controlled substance, except
10 that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist,
11 veterinarian, naturopathic doctor, or other acting within the scope authorized by his or her license.

12 7. Section 4059 provides that a person may not furnish any dangerous drug, except upon
13 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, naturopathic doctor,
14 or other acting within the scope authorized by his or her license.

15 8. Section 4300, subdivision (a), states that “[e]very license issued may be suspended or
16 revoked.”

17 9. Section 4301 states, in pertinent part:

18 "The board shall take action against any holder of a license who is guilty of unprofessional
19 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

20 Unprofessional conduct shall include, but is not limited to, any of the following:

21

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

25 "(g) Knowingly making or signing any certificate or other document that falsely
26 represents the existence or nonexistence of a state of facts.

27 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
28 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to

1 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
2 to the extent that the use impairs the ability of the person to conduct with safety to the public the
3 practice authorized by the license.

4

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

7

8 "(l) The conviction of a crime substantially related to the qualifications, functions, and
9 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
10 (commencing with Section 801) to Title 21 of the United States Code regulating controlled
11 substances or of a violation of the statutes of this state regulating controlled substances or
12 dangerous drugs shall be conclusive evidence only of the fact that the conviction occurred. The
13 board may inquire into the circumstances surrounding the commission of the crime, in order to fix
14 the degree of discipline or, in the case of the conviction not involving controlled substances or
15 dangerous drugs, to determine if the conviction is an offense substantially related to the
16 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
17 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
18 of this provision. The board may take action when the time for appeal has elapsed, or the
19 judgment of conviction has been affirmed on appeal or when an order granting probation is made
20 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
21 the Penal Code allowing the person to withdraw his or her plea and to enter a plea of not guilty, or
22 setting aside the verdict of guilty, or dismissing the accusation, information, or indictment."

23

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

28 ///

1 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
2 case.

3 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

4 16. Cozaar, a brand name of losartan, is categorized as a dangerous drug pursuant to
5 section 4022.

6 17. Cymbalta, a brand name of duloxetine, is categorized as a dangerous drug pursuant to
7 section 4022.

8 18. Promethazine with Codeine syrup is a Schedule V controlled substance as designated
9 by Health and Safety Code section 11058(c)(1) and is categorized as a dangerous drug pursuant to
10 section 4022.

11 19. Valium, a trade name for the chemical substance diazepam, is a Schedule IV
12 controlled substance as designated by Health and Safety Code section 11057(d)(9) and is
13 categorized as a dangerous drug pursuant to section 4022.

14 20. Vicodin ES, trade name for a combination drug containing hydrocodone bitartrate
15 (opioid analgesic) and acetaminophen, is a Schedule III controlled substance as defined in Health
16 and Safety Code section 11056(e)(4) and is categorized as a dangerous drug according to
17 section 4022.

18 **VONS PHARMACY NO. 1913**

19 21. On or about February 14, 1992 through February 8, 2007, Respondent was employed
20 as a staff pharmacist at Vons Pharmacy No. 1913.

21 22. On or about February 8, 2007, after being anonymously advised that Respondent was
22 stealing store merchandise, Vons Company loss prevention investigators conducted a dedicated
23 surveillance on Respondent's actions during his work shift at Vons Pharmacy No. 1913. During
24 the surveillance, at various times of the day, Respondent selected a myriad of merchandise from
25 the store, ate merchandise, and took merchandise to the Pharmacy Department without making
26 any attempt for payment at the store's front registers or Pharmacy register. At the end of his work
27 day shift, Respondent exited the store with his collection of unpaid merchandise in numerous
28 bags and large mailing envelopes. Respondent's clothing pockets held other merchandise and

1 prescription medications, controlled substances and dangerous drugs, in improperly labeled,
2 fictitiously labeled, and / or unlabeled containers taken without payment and without valid
3 prescriptions. Also, in his possession were Vons Pharmacy patient records for approximately ten
4 (10) different patients¹. Without incident, Respondent voluntarily returned all unpaid for items:
5 \$116.14 of miscellaneous merchandise², and \$355.46 of prescription drugs, 30 100mg Cozaar
6 tablets, 30 Cymbalta, 20 Vicodin ES tablets, and 30 5mg Valium tablets, and a bottle of
7 Promethazine with Codeine syrup labeled with Respondent's name and fictitious prescription
8 number. Further inspection of the store's Pharmacy area revealed \$402 of store merchandise and
9 \$25.19 of cleaning supplies that did not belong in the Pharmacy area and were returned to the
10 sales floor. Respondent was arrested by Vons loss prevention officers, released into the custody
11 of Oxnard Police, and transported to Oxnard Police Department jail.

12 23. On or about August 6, 2007, Vons Pharmacy No. 1913 filed a Report of Theft or Loss
13 of Controlled Substances, Form DEA – 106, for the period of May 1, 2006 through May 1, 2007,
14 listing losses of controlled substances with theft reported to Oxnard Police. The list of controlled
15 substances lost was: 140 Hydrocodone/APAP tablets, 1,914 Hydrocodone/APAP tablets, 1304ml
16 Promethazine with Codeine syrup, and 86 5mg Valium tablets. The security measures taken to
17 prevent future losses were identified as "careful monitoring of inventory" and "Pharmacist in
18 charge was terminated."

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption**

21 **- Theft of Controlled Substances and / or Dangerous Drugs)**

22 24. Respondent is subject to disciplinary action under sections 4300 and 4301,
23 subdivision (f), on the grounds of unprofessional conduct, in that on or about February 8, 2007,
24 Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption

25 _____
26 ¹ Patient names are being withheld and patient records will be produced at trial.

27 ² An abbreviated list of groceries: 2 cucumbers 2 tangerines, 6 avocados, 2 limes, 2
28 lemons, 2 pizzas, 3 Playtex gloves, 1 apple, 4 rice pudding, 1 Cinderella III DVD, 4 14oz orange
juice, 3 toothbrushes, 1 raspberry coffee cake, 1 apple cinnamon muffins, 2 glade candles, 1 6oz
yogurt, and 1 1qt. water.

1 when he stole from his employer \$355.46 worth of controlled substances and / or dangerous
2 drugs, without valid prescriptions, as follows: 30 100mg Cozaar tablets, 30 Cymbalta, 1 bottle of
3 Promethazine with Codeine syrup, 20 Vicodin ES tablets, and 30 5mg Valium tablets.

4 Complainant refers to and by this reference incorporates the allegations set forth above in
5 paragraphs 21 – 23, inclusive, as though set forth fully.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption**
8 **- Theft of Merchandise)**

9 25. Respondent is subject to disciplinary action under sections 4300 and 4301,
10 subdivision (f), on the grounds of unprofessional conduct, in that on or about February 8, 2007,
11 Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption
12 when he stole from his employer \$116.14 worth of miscellaneous store merchandise.

13 Complainant refers to and by this reference incorporates the allegations set forth above in
14 paragraphs 21 – 23, inclusive, as though set forth fully.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Possession of Controlled Substances and / or Dangerous Drugs, Illegally)**

17 26. Respondent is subject to disciplinary action under Code sections 4300 and 4301,
18 subdivision (j) and / or (o), on the grounds of unprofessional conduct, in that on or about February
19 8, 2007, Respondent furnished to himself and was in possession of controlled substances and / or
20 dangerous drugs, without valid prescriptions, in violation of sections 4059 and 4060 in
21 conjunction with Health and Safety Code sections 11173, subdivision (a) [obtaining controlled
22 substances by fraud , deceit, or subterfuge], 11350, subdivision (a) [possession of Vicodin and
23 Phenergan with Codeine (narcotic)], and 11377, subdivision (b) [possession of Valium].

24 Complainant refers to and by this reference incorporates the allegations set forth above in
25 paragraphs 21 – 23, inclusive, as though set forth fully.

26 **FOURTH CAUSE FOR DISCIPLINE**

27 **(Dangerous Use of Controlled Substances / Dangerous Drugs)**

28 27. Respondent is subject to disciplinary action under sections 4300 and 4301,

1 subdivision (h), in that on or about February 8, 2007, Respondent admittedly had administered to
2 himself controlled substances and dangerous drugs, without valid prescriptions, using them to an
3 extent to be dangerous or injurious to himself, or others, and / or to the extent that his use
4 impaired his ability to conduct with safety to the public the authorized practice of pharmacy.

5 Complainant refers to and by this reference incorporates the allegations set forth above in
6 paragraphs 21 – 23, inclusive, as though set forth fully.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(Operating Pharmacy While Under the Influence)**

9 28. Respondent is subject to disciplinary action under sections 4300 and 4301,
10 subdivision (j) and / or (o), on the grounds of unprofessional conduct, in that on or about February
11 8, 2007, and other dates unknown, Respondent admittedly worked as a pharmacist while under
12 the influence of controlled substances and dangerous drugs, without valid prescriptions, in
13 violation of section 4327. Complainant refers to and by this reference incorporates the allegations
14 set forth above in paragraphs 21 – 23, inclusive, as though set forth fully.

15 **SIXTH CAUSE FOR DISCIPLINE**

16 **(False Records)**

17 29. Respondent is subject to disciplinary action under sections 4300 and 4301,
18 subdivisions (g) and / or (o), on the grounds of unprofessional conduct, in conjunction with
19 section 4324 and California Code of Regulations, title 16, section 1717, subdivision (a), in that on
20 or about February 8, 2007, Respondent prepared and possessed a fictitious prescription label for a
21 container of a controlled substance and dangerous drug, specifically, a bottle of Promethazine
22 with Codeine syrup having his name and a fictitious prescription number. Complainant refers to
23 and by this reference incorporates the allegations set forth above in paragraphs 21 – 23, inclusive,
24 as though set forth fully.

25 **SEVENTH CAUSE FOR DISCIPLINE**

26 **(Failure to Maintain Records on Premises)**

27 30. Respondent is subject to disciplinary action under sections 4300 and 4301,
28 subdivision (o), on the grounds of unprofessional conduct, in that on or about February 8, 2007,

1 Respondent removed client prescription records from the premises, failing to maintain the
2 prescriptions records on the premises, in violation of section 4333, subdivision (a). Complainant
3 refers to and by this reference incorporates the allegations set forth above in paragraphs 21 – 23,
4 inclusive, as though set forth fully.

5 **EIGHTH CAUSE FOR DISCIPLINE**

6 **(Criminal Conviction)**

7 31. Respondent is subject to disciplinary action under sections 490, 4300 and 4301,
8 subdivision (I), on the grounds of unprofessional conduct, in conjunction with California Code of
9 Regulations, title 16, section 1770, in that on or about December 10, 2008, Respondent was
10 convicted of a crime substantially related to the qualifications, functions, or duties of a
11 pharmacist.

12 a. On or about December 10, 2008, after pleading nolo contendere to one count
13 misdemeanor, violating Penal Code section 484, subdivision (a) [petty theft] in the criminal
14 proceeding entitled *The People of the State of California v. Louis Joseph Yered, Jr.* (Super. Ct.
15 County of Ventura, Case No. 2007007751. The Court ordered Respondent to one year probation,
16 restitution of \$116.14 and fines.

17 b. The circumstances underlying the conviction, Complainant refers to and by this
18 reference incorporates the allegations set forth above in paragraphs 21 – 23, inclusive, as though
19 set forth fully.

20
21 **PRAYER**

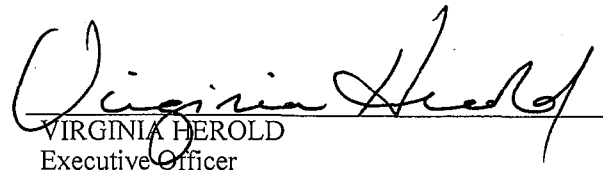
22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Board issue a decision:

- 24 1. Revoking or suspending Pharmacist License No. RPH 37006, issued to Respondent;
25 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
26 enforcement of this case, pursuant to section 125.3; and
27 3. Taking such other and further action as deemed necessary and proper.

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DATED: 4/14/10



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

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