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

11 In the Matter of the Accusation Against: Case No. 3584

12 **JOSE RAMON SARDINAS**
38 Village Circle
13 Manhattan Beach, CA 90266

14 Original Pharmacist License No. RPH 27061
Respondent.

ACCUSATION

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, Department of Consumer
20 Affairs.

21 2. On or about November 19, 1970, the Board of Pharmacy issued Original
22 Pharmacist License Number RPH 27061 to JOSE RAMON SARDINAS. The License was in
23 full force and effect at all times relevant to the charges brought herein and will expire on May
24 31, 2010 unless renewed.

25 **JURISDICTION**

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

1 4. Section 4300 permits the Board to take disciplinary action to suspend or
2 revoke a license issued by the Board.

3 5. Section 4301 states, in pertinent part:

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

11

12 “(l) The conviction of a crime substantially related to the qualifications, functions,
13 and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
14 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
15 substances or of a violation of the statutes of this state regulating controlled substances or
16 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
17 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
18 The board may inquire into the circumstances surrounding the commission of the crime, in order
19 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
20 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
21 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty
22 or a conviction following a plea of nolo contendere is deemed to be a conviction within the
23 meaning of this provision. The board may take action when the time for appeal has elapsed, or
24 the judgment of conviction has been affirmed on appeal or when an order granting probation is
25 made suspending the imposition of sentence, irrespective of a subsequent order under Section
26 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a
27 plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information,
28 or indictment.

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“(o) Violating or attempting to violate, directly or indirectly, or assisting in 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 pharmacy, including regulations established by the board.

....

“(p) Actions or conduct that would have warranted the denial of a license.”

6. Section 118, subdivision (b) states:

“The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.”

7. Section 475 states, in pertinent part:

“(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

....

“(2) Conviction of a crime . . . “

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

“(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that 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 the provisions of Section 1203.4 of the Penal Code.

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“(3)

“(A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license

8. Section 480 states:

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

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following 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 the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; or

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

The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made.”

....

9. 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 or verdict of guilty or a conviction following 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

1 been affirmed on appeal, or when an order granting probation is made suspending the imposition
2 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
3 Penal Code."

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

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

11 11. Business and Professions Code section 125.3, subdivision (a), states, in
12 pertinent part: "Except as otherwise provided by law, in any order issued in resolution of a
13 disciplinary proceeding before any board within the department . . . the board may request the
14 administrative law judge to direct a licentiate found to have committed a violation or violations
15 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
16 enforcement of the case."

17 **FIRST CAUSE FOR DISCIPLINE**

18 (Conviction of Substantially Related Crimes)

19 12. Respondent is subject to disciplinary action under sections 4300 and
20 4301, subdivisions (j), (l), and (o), in conjunction with section 490 and California Code of
21 Regulations, title 16, section 1770 for unprofessional conduct, in that Respondent has been twice
22 convicted of a crimes substantially related to the qualifications, functions or duties of a
23 pharmacist as follows:

24 **ASSAULT (2000 MISDEMEANOR)**

25 A. On or about August 22, 2000, Respondent was convicted on his plea of
26 nolo contendere, of violating Penal Code section 240, a misdemeanor, pursuant to a plea
27 agreement, in the Superior Court of the State of California, County of Los Angeles (Inglewood
28 Courthouse), Case No. OIW03809, entitled *The People of the State of California v. Jose Ramon*

1 *Sardinas*. Imposition of sentence was suspended, and Respondent placed on probation for three
2 (3) years, ordered to pay enumerated fines, and take Anger Management Training. The probation
3 order included a provision prohibiting Respondent from “threaten(ing) anyone,” and that he “not
4 possess any dangerous or deadly weapon.”

5 B. The circumstances are that on May 3, 2000 at approximately 3:25 PM,
6 Respondent was arrested by Hawthorne Police Department officers at **Plaza Pharmacy** where
7 Respondent was employed as a pharmacist, after receiving a 911 call from customer R.H.,
8 complaining that Respondent had pointed a 9MM semi-automatic handgun at R.H.’s head in a
9 threatening manner.

10 R.H. (age 47) had entered the store with two others, and inquired about filling a
11 prescription. Respondent quoted a price for the prescription, which R.H. claimed was too high.
12 R.H. continued to complain about the price to Respondent, who became irate and demanded he
13 leave the store. R.H. did not leave, but sat in a chair near the front entrance of the pharmacy, as
14 he continued to complain in a profane manner to his companions about the high price of the
15 medication. Respondent went to the back of the store and returned with a handgun. Respondent
16 pointed the gun into R.H.’s face, and told him to shut up and leave the store. Respondent clicked
17 the safety off of the gun and continued to exhibit the firearm as R.H. left the pharmacy. Officers
18 retrieved the 9MM semi-automatic handgun and a second handgun, both loaded, from a back
19 counter in the pharmacy.

20 **CARRYING LOADED, UNREGISTERED FIREARM (2008 FELONY)**

21 C. On or about October 16, 2008, Respondent was convicted on a plea of
22 nolo contendere, to one felony count of violating Penal Code section 12031(a)(1) (Carrying a
23 Loaded Firearm, Not Registered), pursuant to a plea agreement, in the Superior Court of the
24 State of California, County of Los Angeles, Case No. SA068932, entitled *The People of the State*
25 *of California v. Jose Ramon Sardinas*. Imposition of sentence (1 day in jail) was suspended, and
26 Respondent placed on formal probation for three (3) years, ordered to pay enumerated fines, and
27 take Anger Management Training. The probation order included a provision requiring that
28 Respondent not “own, use or possess any dangerous or deadly weapons, including firearms.”

1 D. The circumstances are that on August 15, 2008 at approximately 5:40 PM,
2 Hawthorne Police Department officers arrived at the parking area for **Plaza Pharmacy** where
3 Respondent was employed as a pharmacist, due to a 911 call from J.B. that Respondent had
4 pointed a gun at him and threatened him in Spanish, stating: "Te voy a matar Hijo de Puta
5 (translation: I'm going to kill you, you Son of a Bitch)."

6 The incident began when Respondent observed J.B. (an employee of a business
7 adjacent to the pharmacy) illegally park his car in a manner that blocked other vehicles.
8 Respondent yelled to J.B. to move the car. J.B. did not - instead completing a brief errand. When
9 J.B. returned to the car, Respondent was waiting for him, and the two men argued. Respondent
10 left to go into the pharmacy, then re-emerged carrying a black handgun, which he pointed at J.B.,
11 and threatened to kill him. J.B. fled to his office and called 911. Officers responding to J.B.'s
12 call found Respondent (apparently blocked by J.B.'s vehicle from leaving) sitting in his car in
13 the parking area. Officers recovered the black handgun from Respondent, and found a second
14 handgun (a Colt 357. revolver) inside the pharmacy. Both guns were loaded and unregistered.
15 Search of the trunk of Respondent's car yielded three additional unloaded and unregistered
16 firearms (2 revolvers and a Browning 9 mm semi-automatic handgun).

17 **SECOND CAUSE FOR DISCIPLINE**

18 (Acts Involving Moral Turpitude, Dishonesty, Fraud or Deceit)

19 13. Respondent is subject to disciplinary action under sections 4300,
20 subdivision (a), and 4301, subdivision (f), on the grounds of unprofessional conduct, as follows:

21 A. On or about August 15, 2008, Respondent committed acts involving moral
22 turpitude, dishonesty, fraud, deceit, or corruption by acts underlying and resulting in his
23 conviction for carrying a loaded firearm on October 16, 2008, as more fully set forth in
24 paragraph 12 above.

25 B. On or about May 3, 2000 Respondent committed acts involving moral
26 turpitude, dishonesty, fraud, deceit, or corruption by acts underlying and resulting in his
27 conviction for assault on August 22, 2000, as more fully set forth in paragraph 12 above.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 (Conduct Warranting Denial of Licensure)

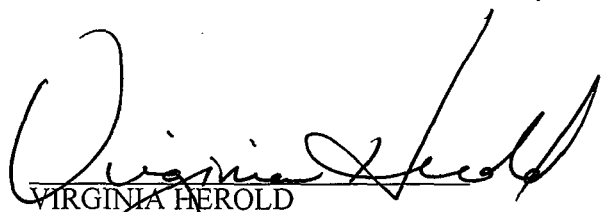
3 14. Respondent is subject to disciplinary action under section 4300,
4 subdivision (a), and 4301, subdivision (p), on the grounds of unprofessional conduct, in that
5 Respondent committed acts or conduct which would have warranted denial of a licensure under
6 sections 475, subdivision (a)(2), and 480, subdivisions (a)(1) by obtaining two criminal
7 convictions, as more fully set forth in paragraph 12, above.

8 **PRAYER**

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

- 11 1. Revoking or suspending Original Pharmacist License Number RPH27061,
12 issued to JOSE RAMON SARDINAS;
- 13 2. Ordering JOSE RAMON SARDINAS to pay the Board of Pharmacy the
14 reasonable costs of investigation and enforcement of this case, pursuant to Business and
15 Professions Code section 125.3;
- 16 3. Taking such other and further action as deemed necessary and proper.

17 DATED: 2/10/10



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

Complainant

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