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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. 4975

13 **SILVA ANDONIAN**
11974 Vara Pl.
Granada Hills, CA 91344

A C C U S A T I O N

14 **Pharmacist License No. RPH 40981**

15 Respondent.

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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.

22 2. On or about August 14, 1987, the Board of Pharmacy issued Pharmacist License
23 Number RPH 40981 to SILVA ANDONIAN (Respondent). The Pharmacist License was in full
24 force and effect at all times relevant to the charges brought herein and will expire on October 31,
25 2014, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
3 Consumer Affairs, under the authority of the following laws.

4 4. Business and Professions Code section 118, subdivision (b),¹ provides that the
5 suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of
6 jurisdiction to proceed with a disciplinary action during the period within which the license may
7 be renewed, restored, reissued or reinstated.

8 5. Section 4300 that every license issued by the Board is subject to discipline, including
9 suspension or revocation.

10 **STATUTORY PROVISIONS**

11 6. Section 4301 states, in pertinent part:

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

16 ...

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

20 ...

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

23 ...

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

7. Section 4059 states, in pertinent part, that a person may not furnish any dangerous
drug except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
naturopathic doctor pursuant to Section 3640.7.

¹ All further statutory references are to the Business and Professions Code unless
otherwise indicated.

1 **DANGEROUS DRUG**

2 8. Section 4022 states:

3 "Dangerous drug" or "dangerous device" means any drug or device
4 unsafe for self-use in humans or animals, and includes the following:

5 (a) Any drug that bears the legend: "Caution: federal law prohibits
6 dispensing without prescription," "Rx only," or words of similar import.

7 (b) Any device that bears the statement: "Caution: federal law restricts
8 this device to sale by or on the order of a _____," "Rx only," or words of
9 similar import, the blank to be filled in with the designation of the practitioner
10 licensed to use or order use of the device.

11 (c) Any other drug or device that by federal or state law can be lawfully
12 dispensed only on prescription or furnished pursuant to Section 4006.

13 9. Butalbital/acetaminophen/caffeine (BUT-APAP-CAF) is a dangerous drug as defined
14 by Business & Professions Code section 4022.

15 **COST RECOVERY**

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

20 **FIRST CAUSE FOR DISCIPLINE**

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

22 11. Respondent is subject to disciplinary action under Section 4301, subdivision (f), in
23 that while employed as a pharmacist with Walgreens, Respondent committed acts involving moral
24 turpitude, dishonesty, fraud, deceit, or corruption. The circumstances are as follows:

25 12. A Walgreens Loss Prevention Officer noticed excessive negative adjustments on
26 BUT-APAP-CAF 50-325-40 TAB from Walgreens store number 5566. The loss prevention
27 department discovered that Respondent, who was employed with Walgreens as a "floater"
28 Pharmacist, was prescribed the medication. It was also discovered that Respondent was working
at store number 5566 on the date the pills were missing. Respondent "floated" between store
number 5566, and store number 7950. As such, the loss prevention department obtained a two
year adjustment report of BUT-APAP-CAF for store numbers 5566 and 7950. The report for

1 store number 5566 showed -4410 in adjustments at an approximate cost of \$176.67. The report
2 for store number 7950 showed -2250 in adjustments from store number 7950 at an approximate
3 cost of \$72.26. Further investigation by the loss prevention department revealed that respondent
4 was the person on shift during the losses. Respondent subsequently confessed to Walgreens both
5 orally and in writing, to diverting BUT-APAP-CAF, and Respondent was fired.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Unprofessional Conduct: Unlawful Possession of a Dangerous Drug)**

8 13. Respondent is subject to disciplinary action under Section 4301, subdivision (j), in
9 conjunction with Section 4059, in that Respondent violated the statutes regulating dangerous
10 drugs when she furnished BUT-APAP-CAF to herself without a valid prescription. Complainant
11 refers to, and by this reference incorporates, the allegations set forth above in paragraph 12, as
12 though set forth fully herein. The circumstances are described in more particularity in paragraph
13 15, above.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct: Violation of Pharmacy Laws)**

16 14. Respondent is subject to disciplinary action under Section 4301, subdivision (o), in
17 that Respondent committed acts in violation of the state laws and regulations governing pharmacy
18 including regulations established by the Board or by any other state or federal regulatory agency.
19 Complainant refers to, and by this reference incorporates, the allegations set forth above in
20 paragraphs 11 through 13, inclusive, as though set forth fully herein.

21 **PRAYER**

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

24 1. Revoking or suspending Pharmacist License Number RPH 40981, issued to SILVA
25 ANDONIAN;

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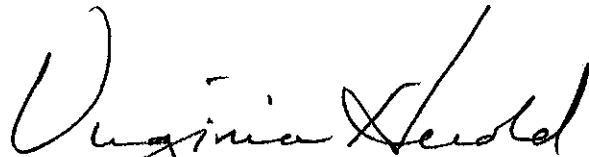
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2. Ordering SILVA ANDONIAN to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 5/17/14



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

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