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8	BEFORE THE
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
10	STATE OF CALIFORNIA
11	
12	In the Matter of the Accusation Against: Case No. 5121
13	MARLENA ANNELISE MCCORMAC, AKA MARLENA ANNELISE LUNING,
14	AKA MARLENA A. LUNINGA C C U S A T I O N3514 Rock Shelf Lane
15	Round Rock, TX 78681
10	
	Pharmacist License No. RPH 60361
16	Pharmacist License No. RPH 60361 Respondent.
16 17	
16 17 18	Respondent.
16 17 18 19	Respondent. Complainant alleges:
16 17 18 19 20	Respondent. Complainant alleges: PARTIES
16 17 18 19 20 21	Respondent. Complainant alleges: PARTIES 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
16 17 18 19 20 21 22	Respondent. Complainant alleges: PARTIES 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
 16 17 18 19 20 21 22 23 	Respondent. Complainant alleges: PARTIES 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs. 2. On or about October 31, 2007, the Board of Pharmacy issued Pharmacist License
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 16 17 18 19 20 21 22 23 24 25 	Respondent. Complainant alleges: PARTIES 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs. 2. On or about October 31, 2007, the Board of Pharmacy issued Pharmacist License Number RPH 60361 to Marlena Annelise Luning, also known as Marlena A. Luning, and Marlena Annelise McCormac (Respondent). The Pharmacist License was in full force and effect
 16 17 18 19 20 21 22 23 24 25 26 	Respondent. Complainant alleges: PARTIES 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs. 2. On or about October 31, 2007, the Board of Pharmacy issued Pharmacist License Number RPH 60361 to Marlena Annelise Luning, also known as Marlena A. Luning, and Marlena Annelise McCormac (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2015, unless
 16 17 18 19 20 21 22 23 24 25 26 27 	Respondent. Complainant alleges: PARTIES 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs. 2. On or about October 31, 2007, the Board of Pharmacy issued Pharmacist License Number RPH 60361 to Marlena Annelise Luning, also known as Marlena A. Luning, and Marlena Annelise McCormac (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2015, 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. All section references are to the
4	Business and Professions Code (Code) unless otherwise indicated.
5	4. Section 4300 of the Code states:
6	(a) Every license issued may be suspended or revoked.
7	
8	5. Section 4300.1 of the Code states:
9	The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law,
10 11	the placement of a license on a retired status, or the voluntary surrender of a license by a license shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the
12	licensee or to render a decision suspending or revoking the license.
13	STATUTES
14	6. Section 499 of the Code states:
15	A board may revoke, suspend, or otherwise restrict a license on the ground
16	that the licensee, in support of another person's application for license, knowingly made a false statement of a material fact or knowingly omitted to state a material fact to the board regarding the application.
17	7. Section 4301 of the Code states:
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19 20	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
21	is not limited to, any of the following:
22	(f) The commission of any act involving moral turpitude, dishonesty, fraud,
23	deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.
24	(g) Knowingly making or signing any certificate or other document that
25	falsely represents the existence or nonexistence of a state of facts.
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COSTS 8. Section 125.3 of the Code states, 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. FACTS 9. On August 20, 2012, the Board received a Community Pharmacy Permit Application for Delago Pharmacy Inc. located at 31739 Riverside Drive, Suite J in Lake Elsinore, California. The application showed the pharmacist-in-charge was Marlena A. Luning of 42 Beacon Bay in Newport Beach, California and Jorge R. was the contact individual to clarify any information. On May 30, 2012, Marlena A. Luning signed the application as the Owner/President of Delago Pharmacy Inc. under the section labeled "Owners and Officers." On May 29, 2012, National Provider Identifier Number 1295095909 was issued for 10. Delago Pharmacy Inc. at 31739 Riverside Drive, Suite J in Lake Elsinore, California, with Marlena A. Luning as the pharmacist-in-charge and listing her Pharmacist License No. RPH 60361 as the business's license number. 11. On June 5, 2012, a credit application was filed with AmerisourceBergen for Delago Pharmacy Inc. and was signed and personally guaranteed by Marlena A. Luning as 100% Owner/President of Delago Pharmacy Inc. On June 6, 2012, AmerisourceBergen set up a credit approved C.O.D. account for Delago Pharmacy Inc.

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12. On June 15, 2012, a Statement of Information was filed with the Secretary of State
 for the State of California for the corporation Delago Pharmacy Inc. to operate as a retail
 pharmacy. The Statement lists Delago Pharmacy Inc.'s address as 31739 Riverside Drive, Suite J

24 || in Lake Elsinore, California with Marlena Annelise Luning as the Chief Executive Officer,

25 Secretary, Chief Financial Officer and Director of the corporation. The Statement lists

26 Respondent's address as 42 Beacon Bay in Newport Beach, California.

27 13. On July 1, 2012, a credit application was filed with Cardinal Health for Delago
28 Pharmacy Inc. and signed by Marlena Luning as 100% President/Owner. The security agreement

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and guarantee were also signed by Marlena Luning as President/Owner. The credit application
 lists Jorge R. as the administrator and primary business contact for Delago Pharmacy Inc. On
 August 7, 2012, Cardinal Health set up a \$10,000 credit limit for Marlena Annelise Luning of
 Delago Pharmacy Inc.

14. On February 21, 2013, during the process of the Board scheduling a new pharmacy 5 site inspection for Delago Pharmacy Inc., Respondent was interviewed. Respondent admitted to a 6 Board inspector that she did not have any ownership in Delago Pharmacy Inc. and that she was 7 not the president of the corporation. Respondent said that the owners of Delago Pharmacy Inc. 8 were Jonathan R.R. and Jorge R. Respondent stated that she signed the credit applications as 9 Owner/President because that was how the owners of Delago Pharmacy Inc. wanted it. Jonathan 10 R.R. and Jorge R, wanted the pharmacy license and the background check to go through 11 Respondent and Respondent agreed to do it. Respondent informed the Board inspector that she 12 had moved to Texas and no longer lives in California. 13

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FIRST CAUSE FOR DISCIPLINE

15 (Acts involving Moral Turpitude, Dishonesty, Fraud and/or Deceit)
16 15. Respondent is subject to disciplinary action under Code section 4301(f) for the
17 commission of acts involving moral turpitude, dishonesty, fraud, or deceit in that she knowingly
18 signed documents and applications as the Owner/President of Delago Pharmacy Inc. when she
19 was not the owner or president of Delago Pharmacy Inc. The circumstances are more specifically
20 set forth above in paragraphs 9 through 14 and as follows:

a. Respondent signed the Certification of Applicant on a Community Pharmacy
Permit Application as the Owner/President for Delago Pharmacy Inc., which was submitted to the
Board.

b. Respondent signed a credit application with AmerisourceBergen for Delago
Pharmacy Inc. as the 100% Owner/President of Delago Pharmacy Inc. and she personally signed
the guarantee for the credit application.

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1	c. Respondent signed the Cardinal Health Credit Application, Agreement and
2	Disclosures form and Security Agreement form for Delago Pharmacy Inc. as the 100%
3	Owner/President of Delago Pharmacy Inc.
4	SECOND CAUSE FOR DISCIPLINE
5	(Making or Signing a Document that Falsely Represents the Existence or Nonexistence of Facts)
6	16. Respondent is subject to disciplinary action under Code section 4301(g) in that
7	Respondent knowingly made and signed certificates or documents that falsely represented the
8	existence or nonexistence of a state of facts when she signed documents and applications as the
9	Owner/President of Delago Pharmacy Inc. when she was not the owner or president of Delago
10	Pharmacy Inc. The circumstances are more specifically set forth above in paragraphs 9 through
11	14 and as follows:
12	a. Respondent signed the Certification of Applicant on a Community Pharmacy
13	Permit Application as the Owner/President for Delago Pharmacy Inc., which was submitted to the
14	Board.
15	b. Respondent signed a credit application with AmerisourceBergen for Delago
16	Pharmacy Inc. as the 100% Owner/President of Delago Pharmacy Inc. and she personally signed
17	the guarantee for the credit application.
18	c. Respondent signed the Cardinal Health Credit Application, Agreement and
19	Disclosures form and Security Agreement form for Delago Pharmacy Inc. as the 100%
20	Owner/President of Delago Pharmacy Inc.
21	THIRD CAUSE FOR DISCIPLINE
22	(Making a False Statement of a Material Fact in Support of Another Person's Application for License to the Board)
23	Support of Another Person's Application for Eleense to the Board)
24	17. Respondent is subject to disciplinary action under Code section 499 in that she
25	knowingly made a false statement of a material fact in support of another person's application for
26	license to the Board. The circumstances are that Respondent signed documents and applications
27	as the Owner/President of Delago Pharmacy Inc. and then submitted to the Board a Certification
28	of Applicant on a Community Pharmacy Permit Application as the Owner/President for Delago
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and that following the bearing, the Board of Pharmacy issue a decision: 1. Revoking or suspending Pharmacist License Number RPH 60361, issued to Marlena Annetise Luning, also known as Marlena A. Luning, and Marlena Annelise McCormac; 2. Ordering Marlena Annelise Luning, also known as Marlena A. Luning, and Marlena Annetise McCormac, 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; and 1. Taking such other and further action as deemed necessary and proper. 12 13 DATED: 72/25/14 VirgGINJA NEROLD Executive Officer 14 Board of Pharmacy 15 VirgGINJA NEROLD 16 SD2014706887 17 SD2014706887 18 SD2014706887 19 SD2014706887 70878654.docx 1 21 2 22 3 23 4 24 5 25 6		
Image: system Image: system Image: system	1	Pharmacy Inc., when she was not the owner or president of Delago Pharmacy Inc., as set forth
4 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: 6 1. Revoking or suspending Pharmacist License Number RPH 60361, issued to Marlena Annelise Luning, also known as Marlena A. Luning, and Marlena Annelise McCormac; 7 Annelise Luning, also known as Marlena A. Luning, and Marlena Annelise McCormac; 8 2. Ordering Marlena Annelise Luning, also known as Marlena A. Luning, and Marlena Annelise McCormac; 9 Annelise McCormac, 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; and 10 enforcement of this case, pursuant to Business and Professions Code section 125.3; and 11 3. Taking such other and further action as deemed necessary and proper. 12 VirRGNYA NEOLD 13 DATED: 7/25/1/4 14 VirRGNYA NEOLD 15 State of California 16 SD2014706887 17 SD2014706887 18 SD2014706887 19 SD2014706887 70878654.docx 2 21 2 22 2 23 2 24 2	2	above in paragraphs 9 through 14.
and that following the hearing, the Board of Pharmacy issue a decision: 1. Revoking or suspending Pharmacist License Number RPH 60361, issued to Marlena Annelise Luning, also known as Marlena A. Luning, and Marlena Annelise McCormac; 2. Ordering Marlena Annelise Luning, also known as Marlena A. Luning, and Marlena Annelise McCormac, 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; and 1. Taking such other and further action as deemed necessary and proper. 12 13 DATED:	3	PRAYER
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Annelise Luning, also known as Marlena A. Luning, and Marlena Annelise McCormac; 9 Annelise McCormac, 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; and 11 12 13 14 15 16 17 18 19 19 10 10 11 12 13 14 15 16 17 18 19 10 10 11 12 13 14 15 16 17 18 19 10 11 12 13 14 15 16 17 18 19 10 10 11	5	and that following the hearing, the Board of Pharmacy issue a decision:
 Ordering Marlena Annelise Luning, also known as Marlena A. Luning, and Marlena Annelise McCormac, 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; and Taking such other and further action as deemed necessary and proper. DATED: 7/25/1/4 Virofinva VEROLD Executive Officer Board of Pharmacy Department of Consumer Affairs State of California Complational SD2014706887 70878654.doex Bard of Pharmacy Department of Consumer Affairs State of California Complational SD2014706887 70878654.doex 	6	1. Revoking or suspending Pharmacist License Number RPH 60361, issued to Marlena
Annelise McCormac, 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; and 3. Taking such other and further action as deemed necessary and proper. DATED: $7/25/1/4$ Use William Comparison of Pharmacy DATED: $7/25/1/4$ Use Consumer Affairs State of California Completion of Consumer Affairs State of California Consumer Affairs State of California Completion of Consumer Affairs State of California Completion of Consumer Affairs State of California Consumer Affairs State of California Completion of Consumer Affairs State of California Consumer Affairs State of	7	Annelise Luning, also known as Marlena A. Luning, and Marlena Annelise McCormac;
10 enforcement of this case, pursuant to Business and Professions Code section 125.3; and 11 3. Taking such other and further action as deemed necessary and proper. 12 DATED: $7/25/14$ 14 Frequency 15 DATED: $7/25/14$ 16 Frequency 17 Board of Pharmacy 18 D2014706887 19 70878654.docx 21 SD20147066887 22 G 23 G 24 G 25 G 26 G	8	2. Ordering Marlena Annelise Luning, also known as Marlena A. Luning, and Marlena
11 3. Taking such other and further action as deemed necessary and proper. 12 DATED: 7/25//4 View nick officer 14 View nick officer 15 Board of Pharmacy 16 Department of Consumer Affairs 17 State of California 18 SD2014706887 19 SD2014706887 12 SD2014706887 12 SD2014706887 13 SD2014706887 14 SD2014706887 15 State of California 16 SD2014706887 17 SD2014706887 18 SD2014706887 19 SD2014706887 10 SD2014706887 12 SD2014706887 13 SD2014706887 14 SD2014706887 15 SD2014706887 16 SD2014706887 17 SD2014706887 18 SD2014706887 19 SD2014706887 10 SD2014706887 11 SD2014706887 12 SD2014706887	9	Annelise McCormac, to pay the Board of Pharmacy the reasonable costs of the investigation and
12 DATED:	10	enforcement of this case, pursuant to Business and Professions Code section 125.3; and
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