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

11 In the Matter of the Accusation Against:

Case No. 5476

12 **MOHAMED SAYED HAFEZ A. ISMAEIL**  
13 **aka MOHAMED SAYED ISMAEIL**  
5501 Norris Road, Apt 49  
14 Bakersfield, CA 93308

OAH No. 2016030288

**WITHDRAWAL OF ACCUSATION AND  
STATEMENT OF ISSUES**

15 Intern Pharmacist Registration No. INT 33563

Hearing: Monday, April 25, 2016

16 Respondent.

17 In the Matter of the Statement of Issues  
Against:

Case No. 5721

18 **MOHAMED SAYED HAFEZ A. ISMAEIL**  
19 **aka MOHAMED SAYED ISMAEIL**

OAH No. 2016030292

(Consolidated with OAH Case No.  
2016030288)

20 Pharmacist License Applicant

21 Respondent.

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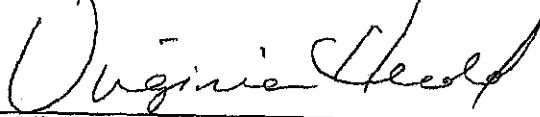
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Virginia Herold ("Complainant") solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, hereby withdraws, without prejudice, the Accusation and Statement of Issues filed in the above-entitled matters on January 26, 2016.

DATED: 4/14/16   
VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
State of California  
*Complainant*

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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. 5476

12 **MOHAMED SAYED HAFEZ A. ISMAEIL**  
13 **aka MOHAMED SAYED ISMAEIL**  
13940 Paramount Blvd., Apt. #713  
14 Paramount, CA 90723

**A C C U S A T I O N**

15 Intern Pharmacist Registration No. INT 33563

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.

22 2. On or about July 10, 2014, the Board of Pharmacy issued Intern Pharmacist  
23 Registration No. INT 33563 to Mohamed Sayed Hafez A. Ismaeil aka Mohamed Sayed Ismaeil  
24 ("Respondent"). The Intern Pharmacist Registration was in full force and effect at all times  
25 relevant to the charges brought herein and will expire on July 31, 2016, 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 unless otherwise indicated.

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

9 5. Section 4011 of the Code provides that "[t]he board shall administer and enforce this  
10 chapter [Pharmacy Law, (Business and Professions Code, Sec 4000 et seq.)] and the Uniform  
11 Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and  
12 Safety Code). "

13 6. Section 4300, subdivision (a), of the Code states, in pertinent part, that "[e]very  
14 license issued may be suspended or revoked."

15 7. Section 4300.1 of the Code states, in pertinent part:

16 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by  
17 operation of law or by order or decision of the board or a court of law, the placement of a license  
18 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board  
19 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary  
20 proceeding against, the licensee or to render a decision suspending or revoking the license."

21 **STATUTORY PROVISIONS**

22 8. Section 490 of the Code provides that a board may suspend or revoke a license on the  
23 ground that the licensee has been convicted of a crime substantially related to the qualifications,  
24 functions, or duties of the business or profession for which the license was issued.

25 9. Section 4301 of the Code states, in pertinent part:

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

1 . . . .

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

5 . . . .

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

1 **REGULATORY PROVISIONS**

2 10. California Code of Regulations, title 16, section 1770, states, in pertinent part:

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

9 **COST RECOVERY**

10 11. Section 125.3 of the Code provides that the Board may request the administrative law  
11 judge to direct a licentiate found to have committed a violation or violations of the licensing act  
12 to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case,  
13 with failure of the licentiate to comply subjecting the license to not being renewed or reinstated.  
14 If a case settles, recovery of investigation and enforcement costs may be included in a stipulated  
15 settlement.

16 **FIRST CAUSE FOR DISCIPLINE**

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

18 12. Respondent is subject to disciplinary action under section 4301, subdivision (f), in  
19 conjunction with California Code of Regulations, title 16, section 1770, on the grounds of  
20 unprofessional conduct, in that Respondent committed acts involving moral turpitude, dishonesty,  
21 fraud, deceit, or corruption, as follows:

22 a. On or about August 23, 2013 to on or about September 2, 2014, Respondent  
23 manufactured and sold counterfeit clothing at a shopping center in Los Angeles, CA. Respondent  
24 used a heat transfer machine to manufacture the clothing items, and sold the clothing to  
25 customers.

26 b. On or about February 4, 2015, Respondent entered a plea of nolo contendere for one  
27 misdemeanor count of violating Penal Code section 350, subdivision (a)(1) [manufacture, sell,  
28 and knowingly possess for sale a counterfeit of a registered mark], in the criminal proceeding

1 entitled *The People of the State of California* (Super. Ct. L.A. County, 2015, No. 4BF04683).

2 The Court placed Respondent on 12 months Deferred Entry of Judgment, ordered him to perform  
3 16 days of community service, pay a fine of \$500.00, and restitution of \$3,330.16 for  
4 investigative costs.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Conviction of a Substantially Related Crime)**

7 13. Respondent is subject to disciplinary action under Code section 4301, subdivision (l),  
8 in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was  
9 convicted of a crime substantially related to qualifications, functions, or duties of a registered  
10 intern pharmacist which to a substantial degree evidence his present or potential unfitness to  
11 perform the functions authorized by the registration in a manner consistent with the public health,  
12 safety, or welfare. Complainant refers to and by this reference incorporates the allegations set for  
13 above in paragraph 12, subparagraph b, inclusive, as though set forth fully.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Action or Conduct that Warrants Denial)**

16 14. Respondent is subject to disciplinary action under Code sections 4301, subdivision  
17 (p), in that Respondent committed acts of unprofessional conduct that would have warranted a  
18 denial of a license. Complainant refers to and by this reference incorporates the allegations set  
19 for above in paragraphs 12 and 13, as though set forth fully.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(Violating Pharmacy Law)**

22 15. Respondent is subject to disciplinary action under Code sections 4301, subdivision  
23 (o), in that Respondent violated provisions and/or terms of the Pharmacy Law or of the applicable  
24 federal and state laws and regulations governing pharmacy, including regulations established by  
25 the Board or by any other state or federal regulatory agency. Complainant refers to and by this  
26 reference incorporates the allegations set for above in paragraphs 12 through 14, as though set  
27 forth fully.

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**PRAYER**

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

1. Revoking or suspending Intern Pharmacist Registration No. INT 33563, issued to Mohamed Sayed Hafez A. Ismaeil aka Mohamed Sayed Ismaeil;
2. Ordering Mohamed Sayed Hafez A. Ismaeil to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 1/26/16 

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

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