KAMALA D. HARRIS
Attorney General of California
THOMAS L. RINALDI
Supervising Deputy Attorney General
SUSAN MELTON WILSON
Deputy Attorney General
State Bar No. 106902
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-4942
Facsimile: (213) 897-2804
Attorneys for Complainant

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **ST. ANTONY PHARMACY, INC., dba ST. ANTONY PHARMACY;** EMAD FOUAD HANNA-MICHAEL, President 310 E. Grand Ave., #105 El Segundo, CA 90245 Pharmacy Permit No. PHY 47523 **AND** **EMAD FOUAD HANNA-MICHAEL** 23235 Doris Way Torrance, CA 90505 Pharmacist License No. RPH 52174 Respondent.	Case No. 5802 **ACCUSATION**

Complainant alleges:

PARTIES

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

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2. On or about March 17, 2006, the Board of Pharmacy issued Pharmacy Permit Number PHI 47523 to St. Antony Pharmacy, Inc., doing business as St. Antony Pharmacy; Mead Found Hanna-Michael, President (Respondent Pharmacy). The Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein and will expire on March 1, 2017, unless renewed.

3. On or about September 15, 2000, the Board of Pharmacy issued Pharmacist License Number RPH 52174 to Emad Fouad Hanna-Michael (Respondent Hanna-Michael). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2017, unless renewed.

JURISDICTION

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

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

6. Section **4011** of the code provides that the Board shall administer and enforce both he Pharmacy Law (Business and Profession codes section 4000 et seq.) and the Uniform Controlled Substances Act (Health and Safety code section 11000 et seq.).

7. Section **4300** of the Code provides in pertinent part:

"(a) Every license issued may be suspended or revoked.

"(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

"(3) Suspending his or her right to practice for a period not exceeding one year.

"(4) Revoking his or her license.

"(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

. . .

8. Section **4300.1** of the Code states:

"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, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license."

9. Section **4301** of the Code states:

"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 is not limited to, any of the following:

. . .

"(c) Gross negligence.

. . .

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

. . .

"(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 or by any other state or federal regulatory agency."

. . .

10. Section **4307** of the Code states at dub-division (a) that :

Any person who has been denied a license or whose license has been revoked or is under suspension, or who has failed to renew his or her license while it was under suspension, or who

has been a manager, administrator, owner member, officer, director, associate, or partner of any partnership, corporation, firm, or association whose application for a license has been denied or revoked, is under suspension or has been placed on probation, and while acting as the manager, administrator, owner, member, officer, director, associate, or partner had knowledge or knowingly participated in any conduct for which the license was denied, revoked, suspended, or placed on probation, shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee as follows:

(1) Where a probationary license is issued or where an existing license is placed on probation, this prohibition shall remain in effect for a period not to exceed five years.

(2) Where the license is denied or revoked, the prohibition shall continue until the license is issued or reinstated.

11. Section **4113** of the Code provides at sub-division (c):

The pharmacist-in-charge shall be responsible for a pharmacy's compliance with the state and federal laws and regulations pertaining to the practice of pharmacy.

12. Section **4081** of the Code states:

"(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

"(b) The owner, officer, and partner of any pharmacy, wholesaler, or veterinary food-animal drug retailer shall be jointly responsible, with the pharmacist-in-charge or representative-in-charge, for maintaining the records and inventory described in this section.

"(c) The pharmacist-in-charge or representative-in-charge shall not be criminally responsible for acts of the owner, officer, partner, or employee that violate this section and of which the pharmacist-in-charge or representative-in-charge had no knowledge, or in which he or she did not knowingly participate."

13. California Code of Regulations, title 16, section **1714** provides at subdivision "b":

"(b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and equipment so that drugs are safely and properly prepared, maintained, secured and distributed. The pharmacy shall be sufficient size and unobstructed area to accommodate the safe practice of pharmacy.

14. California Code of Regulations, title 16, section **1718** provides in pertinent part:

"'Current inventory" as used in Sections 4081 and 4332 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332."

. . .

COST RECOVERY

15. 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.

DRUG CLASSIFICATIONS

16. Drug Classifications:

BRAND NAME	GENERIC NAME	DANGEROUS DRUG PER B & PC 4022	CONTROLLED SUBSTANCE PER H & SC	INDICATIONS FOR USE
	Morphine Sulfate	Yes	Yes, CII HSC 11055(b)(1)	Moderate to severe pain
Opana	Oxymorphone	Yes	Yes, CII HSC 11055(b)(1)	Moderate to severe pain
Oxycontin	Oxycodone tablet	Yes	Yes, CII HSC 11055(b)(1)	Moderate to severe pain
Dilaudid	Hydromorphone	Yes	Yes, CII HSC 11055(b)(1)	Moderate to severe pain
MS Contin	Morphine Sulfate ER	Yes	Yes, CII	Moderate to

			HSC 11055(b)(1)	severe pain
Percocet	Oxycodone/APAP	Yes	Yes, CII HSC 11055(b)(1)	Moderate to severe pain
Vicodin	Hydrocodone/APAP	Yes	Yes, CII HSC 11055(b)(1)	Moderate to severe pain
Norco	Hydrocodone/APAP	Yes	Yes, CII HSC 11055(b)(1)	Moderate to severe pain
Adderal	Amphetamine/ Dextroamphetamine	Yes	Yes, CII HSC 11055(d)(3)	Stimulant or Diet Suppressant
Adderall XR	Dextroamphentamine /Amphetamine	Yes	Yes, CII HSC 11055(d)(3)	Stimulant or Diet Suppressant
Nucynta	Tapentadol	Yes	Yes, CII HSC 11055	Moderate to severe pain
Suboxone	Buprenorphine-Naloxone SL	Yes	Yes, CII HSC 11056	Opioid Dependency
Soma	Carisoprodol	Yes	Yes, CIV HSC 11057	Muscle Relaxant
Ambien	Zolpidem	Yes	Yes, CIV HSC 11057 (d)	Insomnia
Xanax	Alprazolam	Yes	Yes, CIV HSC 11057 (d)	Anxiety
Phenergan w/Codeine	Promethazine w/Codeine Syrup	Yes	Yes, CV HSC 11058 (c)(1)	Cough

FACTS COMMON TO ALL CAUSES FOR DISCIPLINE

17. From March 17, 2006 and at all times relevant herein, Respondent Hanna-Michael was the Pharmacist-in-Charge of St. Antony Pharmacy, a retail pharmacy owned and operated by Respondent Pharmacy, located in the city of El Segundo, CA.

18. Between approximately February 24, 2008 and August 17, 2015, **E.Yasin** was employed full-time as a pharmacy technician at Respondent Pharmacy. Her employment was terminated on August 17, 2015.

A. Yasin's First Arrest - May 2015

On or about May 3, 2015, Yasin, was arrested by El Segundo Police Department officers for driving under the influence (DUI). During a booking search, she was found to be in possession of several bottles of prescription drugs, for which she had prescriptions. She was also in possession of numerous controlled medications for which she did NOT have prescriptions.[1]

[1] According to the police report of Yasin's May 3, 2015 arrest, at the time of her arrest, she was in possession of the following controlled medications for which she did not have a prescription:

1. Adderall XR 15 mg (1 pill)

(continued...)

B. **Yasin's Second Arrest – August 2015**

On or about August 18, 2015, Yasin was arrested for embezzlement from Respondent Pharmacy, based on a complaint filed by Respondent Hanna-Michael, who provided the arresting officers with videotape from security surveillance cameras at the pharmacy – showing Yasin taking money from the cash register.

C. At the time of her arrest, Yasin admitted that she had been stealing cash from the pharmacy ("about $100 almost every shift") for about 3 years. She also admitted stealing prescription pills from the pharmacy for personal use, specifically referencing Oxycodone, Soma, Norco and Adderall – indicating she had taken small amounts (about 50 tablets) of the medications referenced.

19. **DEA Report of Theft or Loss of Controlled Substances**

On or about September 1, 2015, the Board of Pharmacy received a "*DEA Report of Theft or Loss of Controlled Substances*" report pursuant to Business and Professions Code section 4104 from Respondent Hanna-Michael, advising the Board of circumstances leading to Yasin's termination, and that on August 22, 2015, Respondent Hanna-Michael had conducted a complete inventory and audited the Pharmacy's purchase invoices and filled prescriptions, and discovered that a large quantity of tablets/capsules were missing as of the inventory date and could not be accounted for. Pursuant to Respondents' revised "*DEA Report of Theft or Loss of Controlled Substances*" report dated September 25, 2015, Respondents reported to the Board that the following drugs were missing from inventory of Respondent Pharmacy, and could not be accounted for:

(...continued)

2. Acetaminophen and Oxycodone 325 mg/ 7.5 mg (1 orange pill)
3. Acetaminophen and Oxycodone 325 mg/ 10 mg (3 white pills)
4. Acetaminophen and Oxycodone 325 mg/ 10 mg (11 yellow pills)
5. Oxycodone Hydrochloride 20 mg (4 pills)
6. Amphetamine and dextroamphetamine 20 mg (3 orange pills)
7. Amphetamine and dextroamphetamine 30 mg (4 orange pills)
8. Amphetamine and dextroamphetamine 20 mg (5 pink pills)
9. Amphetamine and dextroamphetamine 30 mg (25 pink pills)
10. Amphetamine and dextroamphetamine 15 mg (5 orange pills)

	TRADE NAME	QUANTITY LOSS/MISSING
1.	Morphine Sulfate 1R 30mg	-53
2.	Oxymorphone 10mg tab	-129
3.	Oxycodone 15mg tab	-5,482
4.	Hydrocodone/APAP 5-500 tab	-4,871
5.	Oxycodone/APAP 5-325 tab	-892
6.	Oxycodone/APAP 7.5-325 tab	-454
7.	Oxycodone 5mg tab	-466
8.	Oxycodone 30mg tab	-5,012
9.	Amphetamine 15mg tab	-100
10.	Hydrocodone/APAP 7.5-500 tab	-250
11.	Promethazine-Codeine Syrup	-6,735ml
12.	Carisoprodol 350mg tab	-12,251
13.	Hydrocodone/APAP 10-325	-37,782
14.	Hydrocone/APAP 5-325	-1,186
15.	Hydrocodone/APAP 7.5-325	-11,951
16.	Zolpidem 10mg tab	-3,957
17.	Oxycodone 20mg tab	-1,720
18.	Hydromorphone 8mg tab	-248
19.	Morphine Sulfate 30 mg ER	-254
20.	Nucynta 50 mg tab	-80
21.	Hydrocodone/APAP 7.5-750	-6,296
22.	Oxycodone/APAP 10-325	-5,846
23.	Adderall XR 30 mg capsule	-69
24.	Alprazolam 0.5mg tab	-6397
25.	Alprazolam 2mg tab	-645

26.	Amphetamine 10mg tab	-535
27.	Amphetamine 20mg tab	-1,940
28.	Amphetamine 30 mg tab	-2629
29.	Buprenorphine/Naloxone 2/0.5	-545
30.	Oxycodone 10mg tab	-605

FIRST CAUSE FOR DISCIPLINE

(Failure to Maintain Security of Pharmacy)

20. Respondents are subject to disciplinary action under section 4300 for unprofessional conduct as defined in section 4301, subdivision (o), in conjunction with section 4113, 4005 and California Code of Regulations, title 16, section 1714, subdivision (b), for failing to maintain pharmacy facilities, space, fixtures, and equipment so that drugs are safely maintained and secured. Respondents failed to secure and maintain pharmacy facilities from diversion, theft or other lapses resulting in missing inventory - so that between May 1, 2013 and August 17, 2015, the disposition of more than 50,000 controlled substance tablets (as listed at paragraph 18, above) could not be accounted for.

SECOND CAUSE FOR DISCIPLINE

(Gross Negligence)

21. Respondents are subject to disciplinary action under section 4300 for unprofessional conduct as defined in section 4301, subdivision (c), and 4113, in that Respondents committed gross negligence in maintaining and managing Respondent Pharmacy so that between May 1, 2013 and August 17, 2015, the disposition of more than 50,000 controlled substance tablets (listed at paragraph 18, above) could not be accounted for.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Complete and Accurate Records)

22. Respondents are subject to disciplinary action under section 4300 for unprofessional conduct as defined in section 4301, subdivisions (j) and (o), in conjunction with section 4113, 4081 subdivision (a), 4105 and California Code of Regulations, title 16, section

1718 for failure to maintain a complete and accurate record for all controlled substances/dangerous drugs received, sold, or otherwise disposed of by them. Between May 1, 2013 and August 17, 2015, Respondents were unable to account for disposition of more than 50,000 controlled substance tablets (listed at paragraph 18, above).

OTHER MATTERS

23. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 47523 issued to St. Antony Pharmacy, Inc., St. Antony Pharmacy, Inc. shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 47523 is placed on probation or until Pharmacy Permit Number PHY 47523 is reinstated if it is revoked.

24. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 47523 issued to St. Antony Pharmacy, Inc. while Emad Fouad Hanna-Michael has been an officer and/or owner and had knowledge of or knowingly participated in any conduct for which the licensee was disciplined, he shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 47523 is placed on probation or until Pharmacy Permit Number PHY 47523 is reinstated if it is revoked.

PRAYER

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:

1. Revoking or suspending Pharmacy Permit Number PHY 47523, issued to St. Antony Pharmacy, Inc., dba St. Antony Pharmacy; Emad Fouad Hanna-Michael (President);

2. Revoking or suspending Pharmacist License Number RPH 52174, issued to Emad Fouad Hanna-Michael;

3. Prohibiting St. Antony Pharmacy, Inc. from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit number PHY 47523 is placed on probation or until Pharmacy Permit Number PHY 47523 is reinstated if Pharmacy Permit Number 47523 issued to St. Antony Pharmacy, Inc. is revoked;

4. Prohibiting Emad Fouad Hanna–Michael from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 47523 is placed on probation or until Pharmacy Permit Number PHY 47523 is reinstated if Pharmacy Permit Number 47523 issued to St. Antony Pharmacy, Inc. is revoked;

5. Ordering Respondents St. Antony Pharmacy, Inc., dba St. Antony Pharmacy; Emad Fouad Hanna-Michael (President) and Emad Fouad Hanna-Michael 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;

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

DATED: 7/30/16

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

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