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

11 In the Matter of the Accusation Against:

Case No. 5851

12 **GSB PHARMACEUTICAL**
13 **ENTERPRISES dba ALISAL**
14 **PHARMACY, GURPARTAP SINGH**
BASRAI, PRESIDENT & SECRETARY
15 **323 N. Sanborn Rd.**
Salinas, CA 93905
16 **Original Permit No. PHY 50019**

SECOND AMENDED ACCUSATION

17 **ROBERT A. SOUZA**
18 **108 San Benancio Road**
Salinas, CA 93908
Pharmacist License No. RPH 22767

19 **GURPARTAP SINGH BASRAI**
20 **37323 Fremont Blvd.**
Fremont, CA 94536
21 **Pharmacist License No. RPH 31057**

22 Respondents.

23
24 Complainant alleges:

25 **PARTIES**

26 1. Virginia Herold (Complainant) brings this Second Amended Accusation solely in her
27 official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of
28 Consumer Affairs.

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STATUTORY AND REGULATORY PROVISIONS

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

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

...

“(j) The violation of any of the statutes of this state, of 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 4081 of the Code provides, in pertinent part:

“(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. . . .

“(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.”

11. Section 4113, subdivision (c) of the Code states: “The pharmacist-in-charge shall be responsible for a pharmacy’s compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.”

12. Section 4307 of the Code provides, in pertinent part:

“(a) 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, partner, or any other person with management or control of any partnership, corporation, trust, firm, or

1 association whose application for a license has been denied or revoked, is under suspension or has
2 been placed on probation, and while acting as the manager, administrator, owner, member,
3 officer, director, associate, partner, or any other person with management or control had
4 knowledge of or knowingly participated in any conduct for which the license was denied,
5 revoked, suspended, or placed on probation, shall be prohibited from serving as a manager,
6 administrator, owner, member, officer, director, associate, partner, or in any other position with
7 management or control of a licensee as follows:

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

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

12 13. Health and Safety Code section 11164 provides, in pertinent part:

13 “Except as provided in Section 11167, no person shall prescribe a controlled substance, nor
14 shall any person fill, compound, or dispense a prescription for a controlled substance, unless it
15 complies with the requirements of this section.

16 “(a) Each prescription for a controlled substance classified in Schedule II, III, IV, or V,
17 except as authorized by subdivision (b), shall be made on a controlled substance prescription form
18 as specified in Section 11162.1”

19 14. Health and Safety Code section 11162.1 provides, in pertinent part:

20 “(a) The prescription forms for controlled substances shall be printed with the following
21 features:

22 . . .

23 “(2) A watermark shall be printed on the backside of the prescription blank; the watermark
24 shall consist of the words ‘California Security Prescription.’

25 . . .

26 “(7)(A) Six quantity check off boxes shall be printed on the form so that the prescriber may
27 indicate the quantity by checking the applicable box where the following quantities shall appear:

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25-49
50-74
75-100
101-150
151 and over.

...

“(8) Prescription blanks shall contain a statement printed on the bottom of the prescription blank that the ‘Prescription is void if the number of drugs prescribed is not noted.’

...

“(13) An identifying number assigned to the approved security printer by the Department of Justice.

...

“(b) Each batch of controlled substance prescription forms shall have the lot number printed on the form and each form within that batch shall be numbered sequentially beginning with the numeral one.”

15. California Code of Regulations, title 16, section 1714 provides, in pertinent part:

“(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 of sufficient size and unobstructed area to accommodate the safe practice of pharmacy.

...

“(d) Each pharmacist while on duty shall be responsible for the security of the prescription department, including provisions for effective control against theft or diversion of dangerous drugs and devices, and records for such drugs and devices. . . .”

16. California Code of Regulations, title 16, section 1761 states:

“(a) No pharmacist shall compound or dispense any prescription which contains any significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any such prescription, the pharmacist shall contact the prescriber to obtain the information needed to

1 validate the prescription.

2 “(b) Even after conferring with the prescriber, a pharmacist shall not compound or dispense
3 a controlled substance prescription where the pharmacist knows or has objective reason to know
4 that said prescription was not issued for a legitimate medical purpose.”

5 17. Code of Federal Regulations, title 21, section 1301.75, subdivision (b) states:

6 “Controlled substances listed in Schedules II, III, IV, and V shall be stored in a securely
7 locked, substantially constructed cabinet. However, pharmacies and institutional practitioners
8 may disperse such substances throughout the stock of noncontrolled substances in such a manner
9 as to obstruct the theft or diversion of the controlled substances.”

10 COSTS

11 18. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
12 administrative law judge to direct a licentiate found to have committed a violation or violations of
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
14 enforcement of the case.

15 FACTUAL BACKGROUND

16 19. Respondent Souza was Respondent Alisal’s pharmacist-in-charge from September
17 16, 2009, to May 1, 2015.

18 20. On or about February 3, 2015, Respondent Souza reported to the Board that
19 Respondent Alisal had experienced a loss of hydrocodone/acetaminophen 10/325mg, a Schedule
20 II controlled substance and dangerous drug. Respondent Souza later determined that Respondent
21 Alisal had also experienced a loss of alprazolam 2mg, a Schedule IV controlled substance and
22 dangerous drug.

23 21. A Board inspector determined that Respondent Alisal experienced a loss of 68,239
24 tablets of hydrocodone/acetaminophen 10/325mg between June 1, 2013, and February 3, 2015,
25 and a loss of 913 tablets of alprazolam 2mg between June 1, 2013, and January 28, 2015.

26 22. According to its records of disposition, Respondent Alisal dispensed approximately
27 1,136 tablets of alprazolam 2mg manufactured by Sandoz between June 1, 2013, and January 28,
28 2015. Respondent Alisal did not retain purchase records for those alprazolam 2mg tablets.

1 23. On or about October 4, 2017, a Board inspector conducted an inspection at
 2 Respondent Alisal. During the inspection, the inspector observed a safe in the rear area of the
 3 pharmacy that was closed but not locked. The safe contained controlled substances. After the
 4 inspector explained the security requirements for controlled substances to the pharmacist-in-
 5 charge, the pharmacist-in-charge locked the safe. The inspector then asked a pharmacy
 6 technician if she could open the locked safe. Using a combination, the pharmacy technician
 7 opened the safe.

8 24. On or about July 3, 2017, a pharmacist employed by Respondent Alisal filled a
 9 prescription for promethazine with codeine syrup, a Schedule V controlled substance and
 10 dangerous drug. The prescription was missing the following:

- 11 a. A watermark printed on the backside of the prescription that reads: "California
 12 Security Prescription";
- 13 b. An identifying number assigned to the approved security printer by the Department of
 14 Justice;
- 15 c. A lot number printed on the form;
- 16 d. Six quantity check off boxes; and
- 17 e. The following statement printed on the bottom of the prescription: "Prescription is
 18 void if the number of drugs prescribed is not noted."

19 25. The promethazine with codeine syrup prescription was paid for with cash. The
 20 physician who prescribed the promethazine with codeine syrup was located approximately 45
 21 miles away from Respondent Alisal. Also, the prescription document did not contain any notes
 22 indicating that steps were taken to validate the legitimacy of the prescription.

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Failure to Maintain Facilities to Ensure Proper Maintenance and Security of Drugs)**

25 26. Respondents Alisal and Souza are subject to disciplinary action under section 4301,
 26 subdivision (o) of the Code and California Code of Regulations, title 16, section 1714,
 27 subdivisions (b) and/or (d), in that Respondents Alisal and Souza failed to maintain Respondent
 28 Alisal's facilities, space, fixtures, and/or equipment so that drugs were safely and properly

1 prepared, maintained, secured and/or distributed. The circumstances of this conduct are set forth
2 above in paragraphs 19-22.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Failure to Preserve Records of Manufacture, Sale, and/or Acquisition of Dangerous Drugs)**

5 27. Respondents Alisal, Souza, and Basrai are subject to disciplinary action under
6 sections 4301, subdivisions (j) and/or (o), and 4081, subdivisions (a) and/or (b) of the Code, in
7 that Respondents failed to preserve certain records of manufacture, sale, acquisition, or
8 disposition of dangerous drugs or dangerous devices. The circumstances of this conduct are set
9 forth above in paragraphs 19-22.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Failure to Store Controlled Substances in a Securely Locked Cabinet)**

12 28. Respondent Alisal is subject to disciplinary action under section 4301, subdivision (o)
13 of the Code and Code of Federal Regulations, title 21, section 1301.75, subdivision (b),
14 in that Respondent Alisal failed to store controlled substances in a securely locked cabinet. The
15 circumstances of this conduct are set forth above in paragraph 23.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 **(Dispensing a Prescription Containing a Significant Error, Omission, or Uncertainty)**

18 29. Respondent Alisal is subject to disciplinary action under section 4301, subdivision (o)
19 of the Code and California Code of Regulations, title 16, section 1761, subdivisions (a) and/or
20 (b), in that a pharmacist employed by Respondent Alisal dispensed a prescription that contained a
21 significant error, omission, irregularity, uncertainty, ambiguity, or alteration, and/or that
22 pharmacist dispensed a controlled substance prescription where that pharmacist knew or had
23 objective reason to know that the prescription was not issued for a legitimate medical purpose.
24 The circumstances of this conduct are set forth above in paragraphs 24 and 25.

25 **FIFTH CAUSE FOR DISCIPLINE**

26 **(Filling or Dispensing a Prescription Based on Incomplete Prescription Form)**

27 30. Respondent Alisal is subject to disciplinary action under section 4301, subdivisions
28 (j) and/or (o) of the Code and Health and Safety Code section 11164, subdivision (a), in that a

1 pharmacist employed by Respondent Alisal filled or dispensed a prescription for a controlled
2 substance based on a controlled substance prescription form that did not contain all of the features
3 required by Health and Safety Code section 11162.1. The circumstances of this conduct are set
4 forth above in paragraphs 24 and 25.

5 **OTHER MATTERS**

6 31. Pursuant to section 4307 of the Code, if discipline is imposed on Pharmacy Permit
7 Number PHY 50019 issued to GSB Pharmaceutical Enterprises dba Alisal Pharmacy, GSB
8 Pharmaceutical Enterprises dba Alisal Pharmacy shall be prohibited from serving as a manager,
9 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
10 Pharmacy Permit Number PHY 50019 is placed on probation or until Pharmacy Permit Number
11 PHY 50019 is reinstated if it is revoked.

12 32. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
13 PHY 50019 issued to GSB Pharmaceutical Enterprises dba Alisal Pharmacy while Gurpartap
14 Singh Basrai was an officer or owner of GSB Pharmaceutical Enterprises dba Alisal Pharmacy
15 and had knowledge of or knowingly participated in any conduct for which Pharmacy Permit
16 Number PHY 50019 was disciplined, Gurpartap Singh Basrai shall be prohibited from serving as
17 a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
18 five years if Pharmacy Permit Number PHY 50019 is placed on probation or until Pharmacy
19 Permit Number PHY 50019 is reinstated if it is revoked.

20 **DISCIPLINE CONSIDERATIONS**

21 33. To determine the degree of discipline, if any, to be imposed on Respondent Basrai,
22 Complainant alleges that on or about March 2, 2001, in a prior disciplinary action entitled *In the*
23 *Matter of the Accusation Against Gurpartap Singh Basrai*, before the Board, in Case Number
24 2231, Respondent Basrai's Original Pharmacist License Number RPH 31057 was placed on three
25 years probation subject to certain terms and conditions. That decision is now final and is
26 incorporated by reference as if fully set forth in this Second Amended Accusation.

27 34. To determine the degree of discipline, if any, to be imposed on Respondent Basrai,
28 Complainant further alleges that on or about August 27, 2014, in Case No. CI 2011 49013, the

1 Board issued a Citation and Fine to Respondent Basrai based on violations of sections 4301,
2 subdivision (g) (knowingly making or signing any certificate or other document that falsely
3 represents the existence or nonexistence of a state of facts) and 4201, subdivision (i) (failure to
4 report a change in the proposed beneficial ownership interest to the Board within thirty (30)
5 days), of the Code. That Citation and Fine is now final and is incorporated by reference as if fully
6 set forth in this Second Amended Accusation.

7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
9 Second Amended Accusation, and that following the hearing, the Board of Pharmacy issue a
10 decision:

11 1. Revoking or suspending Original Permit Number PHY 50019 issued to GSB
12 Pharmaceutical Enterprises to do business as Alisal Pharmacy, Gurpartap Singh Basrai, President
13 and Secretary;

14 2. Revoking or suspending Original Pharmacist License Number RPH 22767 issued to
15 Robert A. Souza;

16 3. Revoking or suspending Original Pharmacist License Number RPH 31057 issued to
17 Gurpartap Singh Basrai;

18 4. Prohibiting GSB Pharmaceutical Enterprises dba Alisal Pharmacy from serving as a
19 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
20 five years if Pharmacy Permit Number PHY 50019 is placed on probation or until Pharmacy
21 Permit Number PHY 50019 is reinstated if Pharmacy Permit Number 50019 issued to GSB
22 Pharmaceutical Enterprises dba Alisal Pharmacy is revoked;

23 5. Prohibiting Gurpartap Singh Basrai from serving as a manager, administrator, owner,
24 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
25 Number PHY 50019 is placed on probation or until Pharmacy Permit Number PHY 50019 is
26 reinstated if Pharmacy Permit Number 50019 issued to GSB Pharmaceutical Enterprises dba
27 Alisal Pharmacy is revoked;

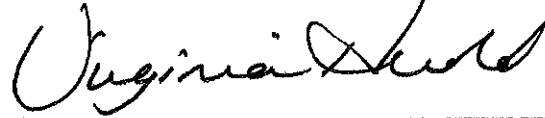
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1 6. Ordering Respondents to pay the Board of Pharmacy the reasonable costs of the
2 investigation and enforcement of this case pursuant to Business and Professions Code section
3 125.3; and

4 7. Taking such other and further action as deemed necessary and proper.

5
6 DATED:

3/5/18



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

10 SF2016200954

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Attorney General of California
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9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:
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ENTERPRISES dba ALISAL
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20 **GURPARTAP SINGH BASRAI**
37323 Fremont Blvd.
Fremont, CA 94536
21 **Pharmacist License No. RPH 31057**
22
23 Respondents.

Case No. 5851

FIRST AMENDED ACCUSATION

24 Complainant alleges:

25 **PARTIES**

26 1. Virginia Herold (Complainant) brings this First Amended Accusation solely in her
27 official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of
28 Consumer Affairs.

1 any other person with management or control of any partnership, corporation, trust, firm, or
2 association whose application for a license has been denied or revoked, is under suspension or has
3 been placed on probation, and while acting as the manager, administrator, owner, member,
4 officer, director, associate, partner, or any other person with management or control had
5 knowledge of or knowingly participated in any conduct for which the license was denied,
6 revoked, suspended, or placed on probation, shall be prohibited from serving as a manager,
7 administrator, owner, member, officer, director, associate, partner, or in any other position with
8 management or control of a licensee as follows:

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

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

13 ...”

14 13. California Code of Regulations, title 16, section 1714 provides, in pertinent part:

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

19 ...

20 “(d) Each pharmacist while on duty shall be responsible for the security of the prescription
21 department, including provisions for effective control against theft or diversion of dangerous
22 drugs and devices, and records for such drugs and devices. . . .”

23 **COSTS**

24 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
25 administrative law judge to direct a licentiate found to have committed a violation or violations of
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
27 enforcement of the case.

28 ///

1 **FACTUAL BACKGROUND**

2 15. Respondent Souza was Respondent Alisal's pharmacist-in-charge from September
3 16, 2009, to May 1, 2015.

4 16. On or about February 3, 2015, Respondent Souza reported to the Board that
5 Respondent Alisal had experienced a loss of hydrocodone/acetaminophen 10/325mg, a Schedule
6 II controlled substance and dangerous drug. Respondent Souza later determined that Respondent
7 Alisal had also experienced a loss of alprazolam 2mg, a Schedule IV controlled substance and
8 dangerous drug.

9 17. A Board Inspector determined that Respondent Alisal experienced a loss of 68,239
10 tablets of hydrocodone/acetaminophen 10/325mg between June 1, 2013, and February 3, 2015,
11 and a loss of 913 tablets of alprazolam 2mg between June 1, 2013, and January 28, 2015.

12 18. According to its records of disposition, Respondent Alisal dispensed approximately
13 1,136 tablets of alprazolam 2mg manufactured by Sandoz between June 1, 2013, and January 28,
14 2015. Respondent Alisal did not retain purchase records for those alprazolam 2mg tablets.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Failure to Maintain Facilities to Ensure Proper Maintenance and Security of Drugs)**

17 19. Respondents Alisal and Souza are subject to disciplinary action under section 4301,
18 subdivision (o) of the Code and California Code of Regulations, title 16, section 1714,
19 subdivisions (b) and/or (d), in that Respondents Alisal and Souza failed to maintain Respondent
20 Alisal's facilities, space, fixtures, and/or equipment so that drugs were safely and properly
21 prepared, maintained, secured and/or distributed. The circumstances of this conduct are set forth
22 above in paragraphs 15-18.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Failure to Preserve Records of Manufacture, Sale, and/or Acquisition of Dangerous Drugs)**

25 20. Respondents Alisal, Souza, and Basrai are subject to disciplinary action under
26 sections 4301, subdivisions (j) and/or (o), and 4081, subdivisions (a) and/or (b) of the Code, in
27 that Respondents failed to preserve certain records of manufacture, sale, acquisition, or
28 disposition of dangerous drugs or dangerous devices. The circumstances of this conduct are set

1 forth above in paragraph 17 and 18.

2 **OTHER MATTERS**

3 21. Pursuant to section 4307 of the Code, if discipline is imposed on Pharmacy Permit
4 Number PHY 50019 issued to GSB Pharmaceutical Enterprises dba Alisal Pharmacy, GSB
5 Pharmaceutical Enterprises dba Alisal Pharmacy shall be prohibited from serving as a manager,
6 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
7 Pharmacy Permit Number PHY 50019 is placed on probation or until Pharmacy Permit Number
8 PHY 50019 is reinstated if it is revoked.

9 22. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
10 PHY 50019 issued to GSB Pharmaceutical Enterprises dba Alisal Pharmacy while Gurpartap
11 Singh Basrai was an officer or owner of GSB Pharmaceutical Enterprises dba Alisal Pharmacy
12 and had knowledge of or knowingly participated in any conduct for which Pharmacy Permit
13 Number PHY 50019 was disciplined, Gurpartap Singh Basrai shall be prohibited from serving as
14 a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
15 five years if Pharmacy Permit Number PHY 50019 is placed on probation or until Pharmacy
16 Permit Number PHY 50019 is reinstated if it is revoked.

17 **DISCIPLINE CONSIDERATIONS**

18 23. To determine the degree of discipline, if any, to be imposed on Respondent Basrai,
19 Complainant alleges that on or about March 2, 2001, in a prior disciplinary action entitled *In the*
20 *Matter of the Accusation Against Gurpartap Singh Basrai*, before the Board, in Case Number
21 2231, Respondent Basrai's Original Pharmacist License Number RPH 31057 was placed on three
22 years probation subject to certain terms and conditions. That decision is now final and is
23 incorporated by reference as if fully set forth herein.

24 24. To determine the degree of discipline, if any, to be imposed on Respondent Basrai,
25 Complainant further alleges that on or about August 27, 2014, in Case No. CI 2011 49013, the
26 Board issued a Citation and Fine to Respondent Basrai based on violations of sections 4301,
27 subdivision (g) (knowingly making or signing any certificate or other document that falsely
28 represents the existence or nonexistence of a state of facts) and 4201, subdivision (i) (failure to

1 report a change in the proposed beneficial ownership interest to the Board within thirty (30)
2 days), of the Code. That Citation and Fine is now final and is incorporated by reference as if fully
3 set forth herein.

4 **PRAYER**

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

7 1. Revoking or suspending Original Permit Number PHY 50019 issued to GSB
8 Pharmaceutical Enterprises to do business as Alisal Pharmacy, Gurpartap Singh Basrai, President
9 and Secretary;

10 2. Revoking or suspending Original Pharmacist License Number RPH 22767 issued to
11 Robert A. Souza;

12 3. Revoking or suspending Original Pharmacist License Number RPH 31057 issued to
13 Gurpartap Singh Basrai;

14 4. Prohibiting GSB Pharmaceutical Enterprises dba Alisal Pharmacy from serving as a
15 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
16 five years if Pharmacy Permit Number PHY 50019 is placed on probation or until Pharmacy
17 Permit Number PHY 50019 is reinstated if Pharmacy Permit Number 50019 issued to GSB
18 Pharmaceutical Enterprises dba Alisal Pharmacy is revoked;

19 5. Prohibiting Gurpartap Singh Basrai from serving as a manager, administrator, owner,
20 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
21 Number PHY 50019 is placed on probation or until Pharmacy Permit Number PHY 50019 is
22 reinstated if Pharmacy Permit Number 50019 issued to GSB Pharmaceutical Enterprises dba
23 Alisal Pharmacy is revoked;

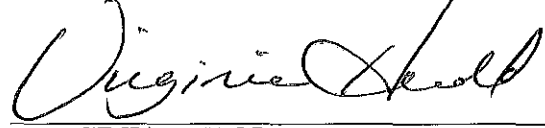
24 6. Ordering Respondents to pay the Board of Pharmacy the reasonable costs of the
25 investigation and enforcement of this case pursuant to Business and Professions Code section
26 125.3; and

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

DATED: 11/29/17 

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

SF2016200954

1 XAVIER BECERRA
Attorney General of California
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A C C U S A T I O N

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21 **Pharmacist License No. RPH 31057**

22 Respondents.

23
24 Complainant alleges:

25 **PARTIES**

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

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1 **STATUTORY AND REGULATORY PROVISIONS**

2 9. Section 4301 of the Code provides, in pertinent part:

3 “The board shall take action against any holder of a license who is guilty of unprofessional
4 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but
5 is not limited to, any of the following:

6 . . .

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

9 . . .

10 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
11 violation of or conspiring to violate any provision or term of this chapter or of the applicable
12 federal and state laws and regulations governing pharmacy, including regulations established by
13 the board or by any other state or federal regulatory agency.

14 . . .”

15 10. Section 4081 of the Code provides, in pertinent part:

16 “(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs
17 or dangerous devices shall be at all times during business hours open to inspection by authorized
18 officers of the law, and shall be preserved for at least three years from the date of making. . . .

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

22 11. Section 4113, subdivision (c) of the Code states: “The pharmacist-in-charge shall be
23 responsible for a pharmacy’s compliance with all state and federal laws and regulations pertaining
24 to the practice of pharmacy.”

25 12. Section 4307 of the Code provides, in pertinent part:

26 “(a) Any person who has been denied a license or whose license has been revoked or is
27 under suspension, or who has failed to renew his or her license while it was under suspension, or
28 who has been a manager, administrator, owner, member, officer, director, associate, partner, or

1 any other person with management or control of any partnership, corporation, trust, firm, or
2 association whose application for a license has been denied or revoked, is under suspension or has
3 been placed on probation, and while acting as the manager, administrator, owner, member,
4 officer, director, associate, partner, or any other person with management or control had
5 knowledge of or knowingly participated in any conduct for which the license was denied,
6 revoked, suspended, or placed on probation, shall be prohibited from serving as a manager,
7 administrator, owner, member, officer, director, associate, partner, or in any other position with
8 management or control of a licensee as follows:

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

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

13 . . .”

14 13. California Code of Regulations, title 16, section 1714 provides, in pertinent part:

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

19 . . .

20 “(d) Each pharmacist while on duty shall be responsible for the security of the prescription
21 department, including provisions for effective control against theft or diversion of dangerous
22 drugs and devices, and records for such drugs and devices. . . .”

23 COSTS

24 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
25 administrative law judge to direct a licentiate found to have committed a violation or violations of
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
27 enforcement of the case.

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1 **FACTUAL BACKGROUND**

2 15. On or about February 3, 2015, Respondent Souza, who at the time was Respondent
3 Alisal's pharmacist-in-charge, reported to the Board that Respondent Alisal had experienced a
4 loss of hydrocodone/acetaminophen 10/325mg, a Schedule II controlled substance and dangerous
5 drug. Respondent Souza later determined that Respondent Alisal had also experienced a loss of
6 alprazolam 2mg, a Schedule IV controlled substance and dangerous drug.

7 16. A Board Inspector determined that Respondent Alisal experienced a loss of 68,239
8 tablets of hydrocodone/acetaminophen 10/325mg between June 1, 2013, and February 3, 2015,
9 and a loss of 913 tablets of alprazolam 2mg between June 1, 2013, and January 28, 2015.

10 17. According to its records of disposition, Respondent Alisal dispensed approximately
11 1,136 tablets of alprazolam 2mg manufactured by Sandoz between June 1, 2013, and January 28,
12 2015. Respondent Alisal did not retain purchase records for those alprazolam 2mg tablets.

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Failure to Maintain Facilities to Ensure Proper Maintenance and Security of Drugs)**

15 18. Respondents Alisal and Souza are subject to disciplinary action under section 4301,
16 subdivision (o) of the Code and California Code of Regulations, title 16, section 1714,
17 subdivisions (b) and/or (d), in that Respondents Alisal and Souza failed to maintain Respondent
18 Alisal's facilities, space, fixtures, and/or equipment so that drugs were safely and properly
19 prepared, maintained, secured and/or distributed. The circumstances of this conduct are set forth
20 above in paragraphs 14 and 15.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Failure to Preserve Records of Manufacture, Sale, and/or Acquisition of Dangerous Drugs)**

23 19. Respondents Alisal, Souza, and Basrai are subject to disciplinary action under
24 sections 4301, subdivisions (j) and/or (o), and 4081, subdivisions (a) and/or (b) of the Code, in
25 that Respondents failed to preserve certain records of manufacture, sale, acquisition, or
26 disposition of dangerous drugs or dangerous devices. The circumstances of this conduct are set
27 forth above in paragraph 16.

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1 **OTHER MATTERS**

2 20. Pursuant to section 4307 of the Code, if discipline is imposed on Pharmacy Permit
3 Number PHY 50019 issued to GSB Pharmaceutical Enterprises dba Alisal Pharmacy, GSB
4 Pharmaceutical Enterprises dba Alisal Pharmacy shall be prohibited from serving as a manager,
5 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
6 Pharmacy Permit Number PHY 50019 is placed on probation or until Pharmacy Permit Number
7 PHY 50019 is reinstated if it is revoked.

8 21. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
9 PHY 50019 issued to GSB Pharmaceutical Enterprises dba Alisal Pharmacy while Gurpartap
10 Singh Basrai was an officer or owner of GSB Pharmaceutical Enterprises dba Alisal Pharmacy
11 and had knowledge of or knowingly participated in any conduct for which Pharmacy Permit
12 Number PHY 50019 was disciplined, Gurpartap Singh Basrai shall be prohibited from serving as
13 a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
14 five years if Pharmacy Permit Number PHY 50019 is placed on probation or until Pharmacy
15 Permit Number PHY 50019 is reinstated if it is revoked.

16 **DISCIPLINE CONSIDERATIONS**

17 22. To determine the degree of discipline, if any, to be imposed on Respondent Basrai,
18 Complainant alleges that on or about March 2, 2001, in a prior disciplinary action entitled *In the*
19 *Matter of the Accusation Against Gurpartap Singh Basrai*, before the Board, in Case Number
20 2231, Respondent Basrai's Original Pharmacist License Number RPH 31057 was placed on three
21 years probation subject to certain terms and conditions. That decision is now final and is
22 incorporated by reference as if fully set forth herein.

23 23. To determine the degree of discipline, if any, to be imposed on Respondent Basrai,
24 Complainant further alleges that on or about August 27, 2014, in Case No. CI 2011 49013, the
25 Board issued a Citation and Fine to Respondent Basrai based on violations of sections 4301,
26 subdivision (g) (knowingly making or signing any certificate or other document that falsely
27 represents the existence or nonexistence of a state of facts) and 4201, subdivision (i) (failure to
28 report a change in the proposed beneficial ownership interest to the Board within thirty (30) days),

1 of the Code. That Citation and Fine is now final and is incorporated by reference as if fully set
2 forth herein.

3 **PRAYER**

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

6 1. Revoking or suspending Original Permit Number PHY 50019 issued to GSB
7 Pharmaceutical Enterprises to do business as Alisal Pharmacy, Gurpartap Singh Basrai, President
8 and Secretary;

9 2. Revoking or suspending Original Pharmacist License Number RPH 22767 issued to
10 Robert A. Souza;

11 3. Revoking or suspending Original Pharmacist License Number RPH 31057 issued to
12 Gurpartap Singh Basrai;

13 4. Prohibiting GSB Pharmaceutical Enterprises dba Alisal Pharmacy from serving as a
14 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
15 five years if Pharmacy Permit Number PHY 50019 is placed on probation or until Pharmacy
16 Permit Number PHY 50019 is reinstated if Pharmacy Permit Number 50019 issued to GSB
17 Pharmaceutical Enterprises dba Alisal Pharmacy is revoked;

18 5. Prohibiting Gurpartap Singh Basrai from serving as a manager, administrator, owner,
19 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
20 Number PHY 50019 is placed on probation or until Pharmacy Permit Number PHY 50019 is
21 reinstated if Pharmacy Permit Number 50019 issued to GSB Pharmaceutical Enterprises dba
22 Alisal Pharmacy is revoked;

23 6. Ordering Respondents to pay the Board of Pharmacy the reasonable costs of the
24 investigation and enforcement of this case pursuant to Business and Professions Code section
25 125.3; and

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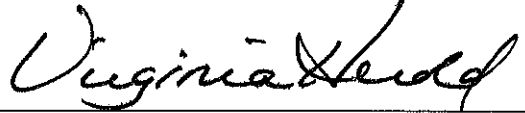
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7. Taking such other and further action as deemed necessary and proper.

DATED: 5/27/17



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

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