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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:  
12  
13 **X-PHARMACY CORP, dba**  
**THE MEDICINE SHOPPE;**  
14 **MICHAEL EDWARD MILAD TADROS;**  
**ABE RABADI**  
15 **174 South Sunrise Way**  
**Palm Springs, CA 92262**  
16 **Pharmacy Permit No. PHY 52578**  
17 Respondent.

Case No. 5906

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

18  
19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 23 2. On or about August 17, 2015, the Board of Pharmacy issued Pharmacy Permit  
24 Number PHY 52578 to X-Pharmacy Corp. dba The Medicine Shoppe; Michael Edward Milad  
25 Tadros, President and 50% Shareholder; Abe Rabadi, (Respondent Rabadi) Sec/Treas/CFO and  
26 50% Shareholder (Respondent). The Pharmacy Permit was in full force and effect at all times  
27 relevant to the charges brought herein and will expire on August 1, 2017, 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 4300 (a) of the Code provides that every license issued by the Board may be  
6 suspended or revoked.

7 5. Section 4300.1 of the Code states:

8 The expiration, cancellation, forfeiture, or suspension of a board-issued  
9 license by operation of law or by order or decision of the board or a court of law,  
10 the placement of a license on a retired status, or the voluntary surrender of a  
11 license by a licensee shall not deprive the board of jurisdiction to commence or  
12 proceed with any investigation of, or action or disciplinary proceeding against, the  
13 licensee or to render a decision suspending or revoking the license.

14 6. Section 4032 defines "license" to include any license, permit, registration, certificate  
15 or exemption issued by the Board.

16 STATUTORY PROVISIONS

17 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
18 revoke a license on the ground that the licensee has been convicted of a crime substantially  
19 related to the qualifications, functions, or duties of the business or profession for which the  
20 license was issued.

21 8. Section 493 of the Code states:

22 Notwithstanding any other provision of law, in a proceeding conducted by a  
23 board within the department pursuant to law to deny an application for a license or  
24 to suspend or revoke a license or otherwise take disciplinary action against a  
25 person who holds a license, upon the ground that the applicant or the licensee has  
26 been convicted of a crime substantially related to the qualifications, functions, and  
27 duties of the licensee in question, the record of conviction of the crime shall be  
28 conclusive evidence of the fact that the conviction occurred, but only of that fact,  
and the board may inquire into the circumstances surrounding the commission of  
the crime in order to fix the degree of discipline or to determine if the conviction is  
substantially related to the qualifications, functions, and duties of the licensee in  
question.

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and  
'registration.'

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

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

6 . . . .

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

10 (g) Knowingly making or signing any certificate or other document that  
11 falsely represents the existence or nonexistence of a state of facts.

12 . . . .

13 (l) The conviction of a crime substantially related to the qualifications,  
14 functions, and duties of a licensee under this chapter. . . . In all other cases, the  
15 record of conviction shall be conclusive evidence only of the fact that the  
16 conviction occurred. The board may inquire into the circumstances surrounding  
17 the commission of the crime, in order to fix the degree of discipline or, in the case  
18 of a conviction not involving controlled substances or dangerous drugs, to  
19 determine if the conviction is of an offense substantially related to the  
20 qualifications, functions, and duties of a licensee under this chapter. A plea or  
21 verdict of guilty or a conviction following a plea of nolo contendere is deemed to  
22 be a conviction within the meaning of this provision. The board may take action  
23 when the time for appeal has elapsed, or the judgment of conviction has been  
24 affirmed on appeal or when an order granting probation is made suspending the  
25 imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
26 the Penal Code allowing the person to withdraw his or her plea of guilty and to  
27 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the  
28 accusation, information, or indictment.

. . . .

(p) Actions or conduct that would have warranted denial of a license.

. . . .

10. Section 4302 of the Code states:

“The board may deny, suspend, or revoke any license of a corporation where conditions  
exist in relation to any person holding 10 percent or more of the corporate stock of the  
corporation, or where conditions exist in relation to any officer or director of the corporation that  
would constitute grounds for disciplinary action against a licensee.”

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1 **REGULATORY PROVISIONS**

2 11. California Code of Regulations, title 16, section 1770, states:

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

7 **COST RECOVERY**

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

12 **FACTS**

13 13. On or about March 2, 2010, the Bureau of Automotive Repair (Bureau) issued  
14 Automotive Repair Dealer Registration No. ARD 261018 to Abe I. Rabadi doing business as A &  
15 Z Smog Test Only. On or about April 22, 2010, the Bureau issued Smog Check, Test Only,  
16 Station License No. TC 261018 to Abe I. Rabadi doing business as A & Z Smog Test Only.  
17 Respondent Rabadi in this matter is the same individual as the Respondent in the Bureau matters  
18 discussed herein.

19 14. In early 2011, the Bureau conducted an undercover investigation against A & Z Smog  
20 Test Only; in which the Bureau ran two undercover vehicles through the shop. The vehicles had  
21 been set up to fail a properly conducted smog test. Respondent Rabadi issued false Certificates of  
22 Compliance to both vehicles, stating that the vehicles had passed inspection. The smog  
23 inspections were conducted using the "clean piping" method<sup>1</sup>.

24 15. On or about August 17, 2011, the Bureau filed Accusation No. 79/12-18 against Abe  
25 I. Rabadi doing business as A & Z Smog Test Only. The Accusation alleged 13 Causes for

26 \_\_\_\_\_  
27 <sup>1</sup> "Clean piping" is sampling the (clean) tailpipe emissions and/or the RPM readings of  
28 another vehicle for the purpose of illegally issuing smog certifications to vehicles that are not in  
compliance or are not present in the smog check area during the time of the certification.

1 Discipline against Respondent Rabadi, including misleading statements, fraud, failure to provide  
2 a written estimate, violations of the Motor Vehicle Inspection program, violations of regulations  
3 of the Motor Vehicle Inspection program, dishonesty, fraud or deceit, and aiding and abetting  
4 unlicensed activity.

5 16. On December 30, 2011 a Stipulated Settlement and Disciplinary Order was signed by  
6 the Bureau with an effective date of February 6, 2012. Respondent Rabadi's Automotive Repair  
7 Dealer Registration No. ARD 261018 and his Smog Check, Test Only, Station License No. TC  
8 261018 for A & Z Smog Test Only were revoked by the Bureau.

9 17. On or about September 25, 2009, the Bureau issued Automotive Repair Dealer  
10 Registration No. ARD 259545 to Abe I. Rabadi doing business as Smog Stop Test Only. On or  
11 about September 29, 2009, the Bureau issued Smog Check, Test Only, Station License No. TC  
12 259545 to Abe I. Rabadi doing business as Smog Stop Test Only. On or about July 15, 2009, the  
13 Bureau issued Advanced Emission Specialist License Number EA 631177 to Respondent Rabadi.  
14 The license was renewed as Smog Check Inspector License No. EO 631177, effective May 3,  
15 2013.

16 18. In May of 2011, the Bureau conducted an investigation against Smog Stop Test Only,  
17 in which the Bureau determined that twenty vehicles has been issued false Certificates of  
18 Compliance by Respondent Rabadi, between April 5, 2011 and May 3, 2011. The smog  
19 inspections were conducted using the "clean plugging" method<sup>2</sup>.

20 19. On or about September 17, 2013, the Bureau filed First Amended Accusation No.  
21 79/12-75 against Abe I. Rabadi doing business as Smog Stop Test Only. The Accusation alleged  
22 eight Causes for Discipline against Respondent Rabadi, including untrue or misleading  
23 statements, fraud, violations of the Motor Vehicle Inspection program, violations of regulations  
24 of the Motor Vehicle Inspection program, and dishonesty, fraud or deceit.

25 \_\_\_\_\_  
26 <sup>2</sup> Clean-plugging is the use of the On Board Diagnostic, generation II readiness monitor  
27 status and stored fault code (trouble code) status of a passing vehicle for the purpose of illegally  
28 issuing a smog certificate to another vehicle that is not in compliance due to a failure to complete  
the minimum number of self tests, known as monitors, or due to the presence of a stored fault  
code that indicates an emission control system or component failure.

1           20. On September 25, 2013, neither Respondent Rabadi, nor his attorney appeared for the  
2 hearing in that matter. On November 1, 2013, a Default decision and Order was issued, with an  
3 effective date of November 20, 2013. Respondent Rabadi's Automotive Repair Dealer  
4 Registration No. ARD 259545 and his Smog Check, Test Only, Station License No. TC 259545  
5 for Smog Stop Test Only were revoked by the Bureau. In addition, Respondent Rabadi's Smog  
6 Check Inspector License No. EO 631177 was also revoked.

7           21. On December 3, 2014, the Board received a community pharmacy permit application  
8 for The Medicine Shoppe. Included with this application were an Individual Personal Affidavit, a  
9 Certification of Personnel and an Individual Financial Affidavit, all signed by Respondent  
10 Rabadi, under penalty of perjury, on November 7, 2014. Respondent Rabadi failed to disclose in  
11 these documents that he had been disciplined by the Bureau of Automotive Repair and that the  
12 licenses issued by the Bureau, to him, had been revoked. Specifically, Respondent Rabadi  
13 answered "No" to the following questions:

14                   "Have you as an individual ever been issued any professional or vocational  
15 license such as a medical doctor, attorney, dentist, contractor, etc. that has been  
16 disciplined by a state regulatory board?"

17                   "Have you ever had a pharmacy permit, or any professional or vocational  
18 license or registration denied, suspended, revoked, placed on probation or other  
19 disciplinary action taken by this or any other governmental authority in this state  
20 or any other state?"

21                   "Will funding be provided in any amount from an individual, partnership or  
22 corporation whose professional or vocational license has been revoked, denied or  
23 in any other manner disciplined by a regulatory board in California or any other  
24 state?"

25           22. The community pharmacy permit application received from Respondent Rabadi also  
26 contained an Individual Financial Affidavit in which Respondent Rabadi indicated he would be  
27 contributing \$10,000 toward the Medicine Shoppe from his ownership interest in another smog  
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1 shop called C. B. Smog. C. B. Smog was owned by his daughter. The Bureau of Automotive  
2 Repair will not permit a revoked licensee from holding an ownership interest in another shop.

3 23. On or about January 13, 2016, in a criminal proceeding entitled *People of the State of*  
4 *California v. Abe Rabadi*, in Riverside County Superior Court, Case Number RIF1502699,  
5 Respondent Rabadi was convicted on his plea of guilty of violating Penal Code section 502,  
6 subdivision (c) (1), knowingly accessing a computer record in order to alter data to defraud and  
7 deceive. In exchange for his guilty plea additional felony charges of violations of Penal Code  
8 section 115, forgery and Vehicle Code section 4463, subdivision (a) (2), forging a vehicle  
9 registration were dismissed. These charges arose from his activities at C. B. Smog.

10 24. As a result of the conviction, Respondent Rabadi was sentenced to three years formal  
11 probation, serve 1 day in county jail, participate in and complete any counseling, rehabilitation  
12 and treatment program deemed appropriate by the probation officer, and payment of fees and  
13 fines.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct - Dishonesty and Fraud)**

16 25. Respondent Rabadi has subjected his license to disciplinary action under section  
17 4301, subdivision (f), in that Respondent Rabadi's actions, while holding licenses issued by the  
18 Bureau of Automotive Repair were dishonest, fraudulent and deceitful. This conduct led to the  
19 revocation of five licenses held by Respondent Rabadi. In addition, Respondent Rabadi failed to  
20 disclose these facts in his application for licensure to the Board of Pharmacy.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct - False Representation)**

23 26. Respondent Rabadi has subjected his license to disciplinary action under section  
24 4301, subdivision (g), in that on or about November 7, 2014, Respondent Rabadi knowingly  
25 made a false statement of fact in his application by falsely stating he had no disciplinary history  
26 with any state regulatory agency.

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**THIRD CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct - Criminal Conviction)**

27. Respondent Rabadi has subjected his license to disciplinary action under sections 490 and 4301, subdivision (l) of the Code, in that Respondent Rabadi was convicted of a crime that is substantially related to the qualifications, functions, and duties of a pharmacy owner.

**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 52578, issued to The Medicine Shoppe; Michael Edward Milad Tadros; Abe Rabadi;
- 2. Ordering Respondent Abe Rabadi 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: \_\_\_\_\_

*11/2/16*

*Virginia Herold*

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

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