

1 XAVIER BECERRA
Attorney General of California
2 HARINDER K. KAPUR
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
Deputy Attorney General
4 State Bar No. 126461
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9429
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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. 6239

12 **SLOKUM LLC, DBA RIVERWALK**
13 **PHARMACY**
14 **4234 Riverwalk Pkway, Ste. 130**
Riverside, CA 92505

A C C U S A T I O N

15 **Pharmacy Permit No. PHY 49858**

16 **NIMESH M. PATEL**
17 **8103 Branding Iron Lane**
Riverside, CA 92508

18 **Pharmacist License No. RPH 52508**

19 **RUTH MERCY SIMON MAGALIT**
20 **P.O. Box 827**
21 **San Bernardino, CA 92401**

22 **Pharmacist License No. RPH 62379**

23 **ZARINA QUTUBUDDIN**
24 **13852 Hollywood Ave.**
Corona, CA 92880

25 **Pharmacist License No. RPH 67183**

26 Respondents.

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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 March 13, 2009, the Board of Pharmacy issued Pharmacy Permit Number PHY 49858 to Slokum LLC, doing business as Riverwalk Pharmacy (Riverwalk Pharmacy). From March 13, 2009 through the present, Respondent Nimesh M. Patel has been the pharmacist-in charge and the one hundred percent shareholder of Riverwalk 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, 2018, unless renewed.

3. On or about April 16, 2001, the Board of Pharmacy issued Pharmacist License Number RPH 52508 to Nimesh M. Patel (Nimesh Patel). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2018, unless renewed.

4. On or about April 16, 2009, the Board of Pharmacy issued Pharmacist License Number RPH 62379 to Ruth Mercy Simon Magalit (Ruth Magalit). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2018, unless renewed.

5. On or about July 12, 2012, the Board of Pharmacy issued Pharmacist License Number RPH 67183 to Zarina Qutubuddin (Zarina Qutubbin). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2019, unless renewed.

JURISDICTION

6. 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 (Code) unless otherwise indicated.

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1 7. Section 4011 of the Code provides that the Board shall administer and enforce both
2 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
3 Act [Health & Safety Code, § 11000 et seq.].

4 8. Section 4300(a) of the Code provides that every license issued by the Board may be
5 suspended or revoked.

6 9. Section 4300.1 of the Code states:

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

10 **STATUTORY AND REGULATORY PROVISIONS**

11 10. Section 4301 of the Code states in pertinent part:

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

15 ...

16 (c) Gross negligence.

17 (d) The clearly excessive furnishing of controlled substances in violation of
18 subdivision (a) of Section 11153 of the Health and Safety Code.

19 ...

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

22 ...

23 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
24 abetting the violation of or conspiring to violate any provision or term of this chapter
25 or of the applicable federal and state laws and regulations governing pharmacy,
26 including regulations established by the board or any other state or federal regulatory
27 agency.

28 ...

11. Section 4113(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 4306.5 of the Code states, in pertinent part:

Unprofessional conduct for a pharmacist may include any of the following:

Acts or omissions that involve, in whole or in part, the inappropriate exercise of his or her education, training, or experience as a pharmacist, whether or not the act or omission arises in the course of the practice of pharmacy or the ownership, management, administration, or operation of a pharmacy or other entity licensed by the board.

Acts or omissions that involve, in whole or in part, the failure to consult appropriate patient, prescription, and other records pertaining to the performance of any pharmacy function.

...

13. Section 4307(a) of the Code states 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 manger, 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 manger, 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.

14. Health and Safety Code section 11153(a) states:

A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. Except as authorized by this division, the following are not legal prescriptions: (1) an order purporting to be a prescription which is issued not in the usual course of professional treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of controlled substances, which is issued not in the course of professional treatment or as part of an authorized narcotic treatment program, for the purpose of providing the user with controlled substances, sufficient to keep him or her comfortable by maintaining customary use.

....

15. Health and Safety Code section 11162.1(a) states:

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

(1) A latent, repetitive 'void' pattern shall be printed across the entire front of the prescription blank; if a prescription is scanned or photocopied, the word "void" shall appear in a pattern across the entire front of the prescription.

(2) A watermark shall be printed on the backside of the prescription blank; the watermark shall consist of the words "California Security Prescription."

(3) A chemical void protection that prevents alteration by chemical washing.

(4) A feature printed in thermochromic ink.

(5) An area of opaque writing so that the writing disappears if the prescription is lightened.

(6) A description of the security features included on each prescription form.

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

1-24

25-49

50-74

75-100

101-150

151 and over.

(B) In conjunction with the quantity boxes, a space shall be provided to designate the units referenced in the quantity boxes when the drug is not in tablet or capsule form.

(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."

(9) The preprinted name, category of licensure, license number, federal controlled substance registration number, and address of the prescribing practitioner.

(10) Check boxes shall be printed on the form so that the prescriber may indicate the number of refills ordered.

(11) The date of origin of the prescription.

(12) A check box indicating the prescriber's order not to substitute.

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

2 (14) (A) A check box by the name of each prescriber when a prescription form
lists multiple prescribers.

3 (B) Each prescriber who signs the prescription form shall identify himself or
4 herself as the prescriber by checking the box by his or her name.

5 16. Health and Safety Code section 11164(a) states in pertinent part:

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

8 Each prescription for a controlled substance classified in Schedule II, III, IV, or V,
9 except as authorized by subdivision (b), shall be made on a controlled substance
prescription form as specified in Section 11162.1...

10 17. Section 1707.3 of title 16, California Code of Regulations states:

11 Prior to consultation as set forth in section 1707.2, a pharmacist shall review a
12 patient's drug therapy and medication record before each prescription drug is
delivered. The review shall include screening for severe potential drug therapy
13 problems.

14 18. Section 1761 of title 16, California Code of Regulations states:

15 (a) No pharmacist shall compound or dispense any prescription which contains
16 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 validate the prescription.

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

20 COST RECOVERY

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

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1 **DRUGS**

2 20. Norco is the brand name for hydrocodone/acetaminophen, a Schedule III controlled
3 substance pursuant to Health and Safety Code section 11056(e)(5) and a dangerous drug pursuant
4 to Business and Professions Code section 4022.

5 21. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code
6 section 11055(b)(1)(M) and a dangerous drug pursuant to Business and Professions Code section
7 4022.

8 22. Phenergan with Codeine is the brand name for promethazine with codeine, a Schedule
9 V controlled substance pursuant to Health and Safety Code section 11058(c)(1) and is a
10 dangerous drug pursuant to Business and Professions Code section 4022.

11 23. Soma is a brand name for carisoprodol, a Schedule IV controlled substance pursuant
12 to title 21, Code of Federal Regulations, section 1308.14(c)(6) and is a dangerous drug pursuant to
13 Business and Professions Code section 4022.

14 24. Xanax is the brand name for alprazolam, a Schedule IV controlled substance pursuant
15 to Health and Safety Code section 11057(d)(1) and a dangerous drug pursuant to Business and
16 Professions Code section 4022.

17 **FACTUAL ALLEGATIONS**

18 25. At all times relevant herein, Nimesh Patel was the Pharmacist-in-Charge of Riverwalk
19 Pharmacy while Ruth Magalit and Zarina Qutubuddin were staff pharmacists at Riverwalk
20 Pharmacy.

21 **Dr. C.A. Prescriptions.**

22 26. From January 2, 2013 through April 2, 2013, Nimesh Patel, Zarina Qutubuddin and
23 Riverwalk Pharmacy filled prescriptions for controlled substances which were written by Dr. C.A.
24 whose address was listed on the prescriptions as being 60 miles away from Riverwalk Pharmacy.
25 Patients paid for the controlled substance prescriptions in cash and did not seek reimbursement
26 from an insurance company or government agency. Nimesh Patel, Zarina Qutubuddin and
27 Riverwalk Pharmacy dispensed controlled substances to multiple patients on the same day.
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1 27. Dr. C.A. wrote these prescriptions for the same controlled substances of high abuse
2 and diversion potential to multiple patients as follows: (1) promethazine with codeine, 480ml (full
3 pint size); (2) alprazolam 2 mg in a quantity of 90; and (3) oxycodone 30mg in a quantity of 180.
4 Only two dangerous drugs were prescribed along with these controlled substances and prescribed
5 dosages of those dangerous drugs was well below the recommended doses for patients requiring
6 potent opioids such as oxycodone. There was no adjustment in the prescribing pattern for sex,
7 age, weight, renal or hepatic function, race, diagnosis, past medications used or any other patient
8 related factor.

9 28. None of the "patients" being treated by Dr. C.A. were receiving a long acting pain
10 medication to control their baseline pain. Dr. C.A. prescribed only the highest dosage of
11 oxycodone without prescribing a lower strength and increasing the strength as needed. Many
12 patients were prescribed both oxycodone and promethazine with codeine which when combined,
13 increases the risk of respiratory depression. No antibiotics or respiratory medications were
14 prescribed along with the promethazine with codeine. Dr. C.A. used the same diagnosis for
15 multiple patients.

16 29. On March 27, 2013, Nimesh Patel reported to the Drug Enforcement Administration
17 that he suspected Dr. C.A. of issuing illegitimate prescriptions.

18 30. On or about December 15, 2014, The Medical Board of California filed an accusation
19 against Dr. C.A. for gross negligence, repeated negligent acts, incompetence, dishonest or corrupt
20 acts, prescribing to addicts, prescribing without performing physical examination or medical
21 indication or both, record keeping violations, excessive prescribing, violations of drug statutes
22 and unprofessional conduct.

23 **Dr. K.T. Prescriptions:**

24 31. From August 3, 2013 through March 11, 2014, Nimesh Patel, Zarina Qutubuddin and
25 Riverwalk Pharmacy filed prescriptions for controlled substances which were written by Dr. K.T.
26 whose addresses were listed on the prescriptions as being 30 and 70 miles away from Riverwalk
27 Pharmacy. Patients paid for the controlled substance prescriptions in cash (sometimes hundreds
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1 of dollars) at Riverwalk Pharmacy and did not seek reimbursement from an insurance company or
2 government agency.

3 32. Dr. K.T. wrote these prescriptions for many of the same patients that Nimesh Patel
4 reported were issued suspect prescriptions by Dr. C.A. Nimesh Patel, Zarina Qutubuddin and
5 Riverwalk Pharmacy dispensed similar or identical prescriptions written by Dr. K.T. to multiple
6 patients on the same day.

7 33. Dr. K.T. wrote these prescriptions for controlled substances of high abuse and
8 diversion potential to multiple patients as follows: (1) promethazine with codeine in a quantity of
9 480ml (full pint size); (2) carisoprodol 35mg in a quantity of 30; (3) oxycodone 30mg in a
10 quantity of 180; and (4) hydrocodone/APAP 10/325 in a quantity of 120. There was no
11 adjustment in the prescribing pattern for sex, age, weight, renal or hepatic function, race,
12 diagnosis, past medications used or any other patient related factor.

13 34. None of the "patients" being treated by Dr. K.T. were receiving a long acting pain
14 medication to control their baseline pain. Dr. K.T. prescribed only the highest dosage of
15 oxycodone without prescribing a lower strength and increasing the strength as needed. Many
16 patients were prescribed both oxycodone or Norco and promethazine with codeine which when
17 combined, increases the risk of respiratory depression. The majority of prescriptions for
18 promethazine with codeine were written without a corresponding prescription for an antibiotic.
19 The majority of the "patients" were given the same diagnosis by Dr. K.T.

20 35. Riverwalk Pharmacy and Nimesh Patel charged three times the acquisition cost of
21 oxycodone, twenty-five times the acquisition cost of promethazine with codeine and eight times
22 the acquisition cost of hydrocodone/APAP.

23 **PA S.D. Prescriptions:**

24 36. From December 19, 2013 through February 6, 2015, Nimesh Patel, Zarina
25 Qutubuddin, Ruth Magalit and Riverwalk Pharmacy filled prescriptions for controlled substances
26 which were written by physician assistant, S.D. whose address was listed on the prescriptions as
27 being 30 miles away from Riverwalk Pharmacy. Patients paid for the controlled substance
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1 prescriptions in cash and did not seek reimbursement from an insurance company or government
2 agency.

3 37. PA S.D. wrote these prescriptions for many of the same patients that Nimesh Patel
4 reported were issued suspect prescriptions by Dr. C.A. Nimesh Patel, Zarina Qutubuddin and
5 Riverwalk Pharmacy dispensed similar or identical prescriptions written by PA S.D. to multiple
6 patients on the same day, all of which received oxycodone.

7 38. PA S.D. wrote these prescriptions for controlled substances of high abuse and
8 diversion potential for multiple patients as follows: (1) promethazine with codeine in a quantity of
9 480ml (full pint size); (2) oxycodone 30mg in a quantity of 180; and (3) hydrocodone/APAP
10 10/325 in a quantity of 120. There was no adjustment in the prescribing pattern for sex, age,
11 weight, renal or hepatic function, race, diagnosis, past medications used or any other patient
12 related factor. The majority of these patients were prescribed both promethazine with codeine and
13 oxycodone.

14 39. None of the "patients" being treated by PA S.D. were receiving a long acting pain
15 medication to control their baseline pain. PA S.D. prescribed only the highest dosage of
16 oxycodone without prescribing a lower strength and increasing the strength as needed. Dangerous
17 drugs were prescribed, along with opioids but in doses commonly considered to be less than
18 therapeutic for this class of patients. Many patients were prescribed both oxycodone and
19 promethazine with codeine which when combined, increases the risk of respiratory depression.
20 PA S.D. diagnosed the majority of patients with the same condition.

21 **Dr. S.K. Prescriptions:**

22 40. From May 14, 2014 through July 3, 2015, Nimesh Patel, Ruth Magalit, Zarina
23 Qutubuddin and Riverwalk Pharmacy filled prescriptions for controlled substances which were
24 written by Dr. S.K. whose addresses were listed on the prescriptions as being 30 and 70 miles
25 away from Riverwalk Pharmacy and areas of practice are listed as internal medicine, family
26 medicine and complementary and alternative medicine. Patients paid for the controlled substance
27 prescriptions in cash (sometimes for hundreds of dollars) and did not seek reimbursement from an
28 insurance company or government agency.

1 41. Dr. S.K. wrote these prescriptions for many of the same patients that Nimesh Patel
2 reported were issued suspect prescriptions by Dr. C.A. Nimesh Patel, Zarina Qutubuddin and
3 Riverwalk Pharmacy dispensed similar or identical prescriptions written by Dr. S.K. to multiple
4 patients on the same day.

5 42. Dr. S.K. wrote these prescriptions for controlled substances of high abuse and
6 diversion potential to multiple patients as follows: (1) promethazine with codeine in a quantity of
7 480ml (pint size); (2) oxycodone 30mg in a quantity of 180; and (3) hydrocodone/APAP 10/325
8 in a quantity of 120. There was no adjustment in the prescribing pattern for sex, age, weight,
9 renal or hepatic function, race, diagnosis, past medications used or any other patient related factor.

10 43. None of the "patients" being treated by Dr. S.K. were receiving a long acting pain
11 medication to control their baseline pain. Dr. S.K. prescribed only the strongest dosage of
12 oxycodone without prescribing a lower strength and increasing the strength as needed. The doses
13 of dangerous drugs prescribed by S.K., along with opioids, were well below the recommended
14 doses for patients requiring potent opioids. Many patients were prescribed both oxycodone and
15 promethazine with codeine which when combined, increases the risk of respiratory depression.
16 The majority of patients received the same diagnosis from Dr. S.K.

17 **Dr. R.G. Prescriptions:**

18 44. From February 3, 2015 through June 29, 2016, Nimesh Patel, Ruth Magalit, Zarina
19 Qutubuddin and Riverwalk Pharmacy filled prescriptions for controlled substances which were
20 written by Dr. R.G. whose address was listed on the prescriptions as being 30 miles away from
21 Riverwalk Pharmacy. Patients paid for the controlled substance prescriptions primarily in cash
22 and did not seek reimbursement from an insurance company or government agency.

23 45. Dr. R.G. wrote these prescriptions for many of the same patients that Nimesh Patel
24 reported were issued suspect prescriptions by Dr. C.A. Respondents dispensed similar or
25 identical prescriptions written by Dr. R.G. to multiple patients on the same day, all of which
26 received oxycodone.

27 46. Dr. R.G. wrote these prescriptions for controlled substances of high abuse and
28 diversion potential to multiple patients as follows: (1) promethazine with codeine in a quantity of

1 480ml (full pint size); (2) oxycodone 30mg in a quantity of 180; and (3) hydrocodone/APAP
2 10/325 in a quantity of 120. There was no adjustment in the prescribing pattern for sex, age,
3 weight, renal or hepatic function, race, diagnosis, past medications used or any other patient
4 related factor.

5 47. None of the "patients" being treated by Dr. R.G. were receiving a long acting pain
6 medication to control their baseline pain. Dr. R.G. prescribed only the highest dosage of
7 oxycodone without prescribing a lower strength and increasing the strength as needed. Many
8 patients were prescribed both oxycodone and promethazine with codeine which when combined,
9 increases the risk of respiratory depression. A dangerous drug was prescribed along with an
10 opioid but in a lower dose than required for patients receiving potent opioids. The majority of
11 patients received the same diagnosis from Dr. R.G.

12 48. From September 2, 2014 through September 27, 2016, Respondents dispensed
13 controlled substances pursuant to prescriptions which were written by Dr. R.G., PA S.D., Dr. S.K.
14 and Dr. G.B. on non-compliant prescription forms missing such required security elements as a
15 watermark printed on the backside of the prescription blank entitled "California Security
16 Prescription," an identifying number assigned to an approved security printer by the Department
17 of Justice, a lot number printed on the form and each form within that batch numbered
18 sequentially and check off boxes. Nimesh Patel dispensed controlled substances in connection
19 with a prescription written by Dr. L.W. (Number 2010610) but dispensed in the name of Dr. R.G.

20 49. Respondents did not follow proper procedures for verifying if controlled substance
21 prescriptions were written for a legitimate medical purpose.

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Failing to Comply with Corresponding Responsibility**

24 **for Legitimate Controlled Substance Prescriptions against Respondents)**

25 50. Respondents are subject to disciplinary action under Code section 4301(j), for
26 violating Health and Safety Code section 11153(a), in that they failed to comply with their
27 corresponding responsibility to ensure that controlled substances were dispensed for a legitimate
28 medical purpose when Respondents furnished prescriptions for controlled substances even though

1 “red flags” were present, indicating those prescriptions were not issued for a legitimate medical
2 purpose, as set forth in paragraphs 25 through 49 above, which are incorporated herein by
3 reference.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Clearly Excessive Furnishing of Controlled Substances against Respondents)**

6 51. Respondents are subject to disciplinary action under Code section 4301(d), for the
7 clearly excessive furnishing of controlled substances in violation of subdivision (a) of Section
8 11153 of the Health and Safety Code, as set forth in paragraphs 25 through 49, above, which are
9 incorporated herein by reference.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Dispensing Controlled Substance Prescriptions with Significant Errors, Omissions,
12 Irregularities, Uncertainties, Ambiguities or Alterations against Respondents)**

13 52. Respondents are subject to disciplinary action under Code section 4301(o), for
14 violating title 16, California Code of Regulations, sections 1761(a) and (b) in that they dispensed
15 prescriptions for controlled substances, which contained significant errors, omissions,
16 irregularities, uncertainties, ambiguities or alterations, as set forth in paragraphs 25 through 49,
17 above, which are incorporated herein by reference.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 **(Dispensing Controlled Substance Prescriptions Written on Unauthorized Forms)**

20 53. Respondents are subject to disciplinary action under Code section 4301(j), for
21 violating Health and Safety Code sections 11162.1(a) and 11164(a), in that they dispensed
22 prescriptions written on unauthorized forms, as set forth in paragraphs 25 through 49 above,
23 which are incorporated herein by reference.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Failure to Exercise or Implement Best Professional Judgment or Corresponding**
3 **Responsibility when Dispensing Controlled Substances**
4 **against Respondents Nimesh Patel, Ruth Magalit and Zarina Qutubuddin)**

5 54. Respondents Nimesh Patel, Ruth Magalit and Zarina Qutubuddin are subject to
6 disciplinary action under Code section 4301(o), for violating Business and Professions Code
7 section 4306.5(a) and (b), in that they failed to exercise or implement his or her best professional
8 judgment or corresponding responsibility when dispensing controlled substances, as set forth in
9 paragraphs 25 through 49, above, which are incorporated herein by reference.

10 **SIXTH CAUSE FOR DISCIPLINE**

11 **(Gross Negligence against Respondents Nimesh Patel, Ruth Magalit**
12 **and Zarina Qutubuddin)**

13 55. Respondents Nimesh Patel, Ruth Magalit and Zarina Qutubuddin are subject to
14 disciplinary action under Code section 4301(c), for being grossly negligent when dispensing
15 controlled substances, as set forth in paragraphs 25 through 49, above, which are incorporated
16 herein by reference.

17 **SEVENTH CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct against Respondents)**

19 56. Respondents are subject to disciplinary action under Code section 4301 for
20 unprofessional conduct in that they engaged in the activities described in paragraphs 25 through
21 49, above, which are incorporated herein by reference.

22 **OTHER MATTERS**

23 57. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
24 PHY 49858 issued to Slokum LLC, doing business as Riverwalk Pharmacy, shall be prohibited
25 from serving as a manager, administrator, owner, member, officer, director, associate, or partner
26 of a licensee for five years if Pharmacy Permit Number PHY 49858 is placed on probation or
27 until Pharmacy Permit Number PHY 49858 is reinstated if it is revoked.

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1 58. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
2 PHY 49858 issued to Slokum LLC, doing business as Riverwalk Pharmacy while Nimesh M.
3 Patel has been an officer and owner and had knowledge of or knowingly participated in any
4 conduct for which the licensee was disciplined, Nimesh M. Patel shall be prohibited from serving
5 as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee
6 for five years if Pharmacy Permit Number PHY 49858 is placed on probation or until Pharmacy
7 Permit Number PHY 49858 is reinstated if it is revoked.

8 59. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License
9 No. RPH 52508 issued to Nimesh M. Patel, Nimesh M. Patel shall be prohibited from serving as
10 a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
11 five years if Pharmacist License Number RPH 52508 is placed on probation or until Pharmacist
12 License Number RPH 52508 is reinstated if it is revoked.

13 **DISCIPLINARY CONSIDERATIONS**

14 60. To determine the degree of discipline, if any, to be imposed on Respondents,
15 Complainant alleges that on January 23, 2012, the Board issued Citation number CI 2011 49369
16 against Riverwalk Pharmacy and Citation number CI 2011 50898 against Nimesh M. Patel for
17 violating Business and Professions Code sections 4104(a) and (b) for failing to have theft and
18 impairment policy and procedures for violating California Code of Regulations, sections
19 1735.3(a), 1735.4(b) and (c), 1735.5(a), 1735.6(c) and 1735.7(a) and (b) for various drug
20 compounding violations. The Board issued fines which Respondents paid.

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

- 23 1. Revoking or suspending Pharmacy Permit Number PHY 49858, issued to Slokum
24 LLC, dba Riverwalk Pharmacy;
- 25 2. Revoking or suspending Pharmacist License Number RPH 52508, issued to Nimesh
26 M. Patel;
- 27 3. Revoking or suspending Pharmacist License Number RPH 62379, issued to Ruth
28 Mercy Simon Magalit;

1 4. Revoking or suspending Pharmacist License Number RPH 67183, issued to Zarina
2 Qutubuddin;

3 5. Prohibiting Slokum LLC, dba Riverwalk Pharmacy from serving as a manager,
4 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
5 Pharmacy Permit Number PHY 49858 is placed on probation or until Pharmacy Permit Number
6 PHY 49858 is reinstated if Pharmacy Permit Number PHY 49858 issued to Slokum LLC, dba
7 Riverwalk Pharmacy is revoked;

8 6. Prohibiting Nimesh M. Patel from serving as a manager, administrator, owner,
9 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
10 Number PHY 49858 is placed on probation or until Pharmacy Permit Number PHY 449858 is
11 reinstated if Pharmacy Permit Number PHY 49858 issued to Slokum LLC, dba Riverwalk
12 Pharmacy is revoked;

13 7. Prohibiting Nimesh M. Patel from serving as a manager, administrator, owner,
14 member, officer, director, associate, or partner of a licensee for five years if Pharmacist License
15 Number RPH 52508 is placed on probation or until Pharmacist License Number RPH 52508 is
16 reinstated if Pharmacist License Number RPH 52508 issued to Nimesh M. Patel is revoked;

17 8. Ordering Slokum LLC, dba Riverwalk Pharmacy, Nimesh M. Patel, Ruth Mercy
18 Simon Magalit and Zarina Qutubuddin to pay the Board of Pharmacy the reasonable costs of the
19 investigation and enforcement of this case, pursuant to Business and Professions Code section
20 125.3; and,

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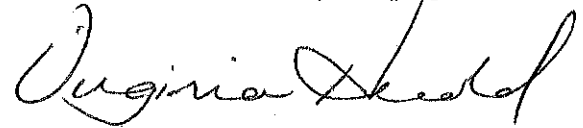
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9. Taking such other and further action as deemed necessary and proper.

DATED: 3/11/18



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

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