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

10
11 In the Matter of the Accusation Against:

Case No. 6286

12 **GSB PHARMACEUTICAL**
ENTERPRISES dba ALISAL LTC
13 **PHARMACY, GURPARTAP SINGH**
BASRAI, PRESIDENT AND SECRETARY
14 **323 N. Sanborn Rd., Ste. A**
Salinas, CA 93905-2247
15 **Original Permit No. PHY 50018**

A C C U S A T I O N

16 **GURPARTAP SINGH BASRAI**
37323 Fremont Blvd.
17 **Fremont, CA 94536**
Pharmacist License No. RPH 31057

18 **JANE CHIN EITOKU**
19 **13449 Paseo Terrano**
Salinas, CA 93908
20 **Pharmacist License No. RPH 39910**

21 Respondents.
22

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 2. On or about September 16, 2009, the Board issued Original Permit Number PHY
2 50018 to GSB Pharmaceutical Enterprises dba Alisal LTC Pharmacy, Gurpartap Singh Basrai,
3 President and Secretary (Respondent Pharmacy). The Original Permit was in full force and effect
4 at all times relevant to the charges brought in this Accusation and will expire on September 1,
5 2018, unless renewed.

6 3. On or about August 1, 1977, the Board issued Pharmacist License Number RPH
7 31057 to Gurpartap Singh Basrai (Respondent Basrai). The Pharmacist License was in full force
8 and effect at all times relevant to the charges brought in this Accusation and will expire on
9 October 31, 2019, unless renewed.

10 4. On or about March 17, 1986, the Board issued Pharmacist License Number RPH
11 39910 to Jane Chin Eitoku (Respondent Eitoku). The Pharmacist License was in full force and
12 effect at all times relevant to the charges brought in this Accusation and will expire on March 31,
13 2018, unless renewed.

14 **JURISDICTION**

15 5. This Accusation is brought before the Board under the authority of the following
16 laws. All section references are to the Business and Professions Code (Code) unless otherwise
17 indicated.

18 6. Section 4011 of the Code provides that the Board shall administer and enforce both
19 the Pharmacy Law (Bus. & Prof. Code, § 4000 et seq.) and the Uniform Controlled Substances
20 Act (Health & Safety Code, § 11000 et seq.).

21 7. Section 4300, subdivision (a) of the Code provides that every license issued by the
22 Board may be suspended or revoked.

23 8. Section 4300.1 of the Code provides that the expiration, cancellation, forfeiture, or
24 suspension of a Board-issued license, the placement of a license on a retired status, or the
25 voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to
26 commence or proceed with any investigation of, or action or disciplinary proceeding against, the
27 licensee or to render a decision suspending or revoking the license.

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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, receipt, shipment, or disposition of
17 dangerous drugs or dangerous devices shall be at all times during business hours open to
18 inspection by authorized officers of the law, and shall be preserved for at least three years from
19 the date of making. A current inventory shall be kept by every manufacturer, wholesaler, third-
20 party logistics provider, pharmacy, veterinary food-animal drug retailer, outsourcing facility,
21 physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution, or establishment
22 holding a currently valid and unrevoked certificate, license, permit, registration, or exemption
23 under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4
24 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who
25 maintains a stock of dangerous drugs or dangerous devices.

26 “(b) The owner, officer, and partner of a pharmacy, wholesaler, third-party logistics
27 provider, or veterinary food-animal drug retailer shall be jointly responsible, with the pharmacist-
28 in-charge, responsible manager, or designated representative-in-charge, for maintaining the

1 records and inventory described in this section.”

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

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

6 “(a) Any person who has been denied a license or whose license has been revoked or is
7 under suspension, or who has failed to renew his or her license while it was under suspension, or
8 who has been a manager, administrator, owner, member, officer, director, associate, partner, or
9 any other person with management or control of any partnership, corporation, trust, firm, or
10 association whose application for a license has been denied or revoked, is under suspension or has
11 been placed on probation, and while acting as the manager, administrator, owner, member,
12 officer, director, associate, partner, or any other person with management or control had
13 knowledge of or knowingly participated in any conduct for which the license was denied,
14 revoked, suspended, or placed on probation, shall be prohibited from serving as a manager,
15 administrator, owner, member, officer, director, associate, partner, or in any other position with
16 management or control of a licensee as follows:

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

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

21 13. California Code of Regulations, title 16, section 1718 provides, in pertinent part:

22 “ ‘Current Inventory’ as used in Sections 4081 and 4332 of the Business and Professions
23 Code shall be considered to include complete accountability for all dangerous drugs handled by
24 every licensee enumerated in Sections 4081 and 4332.”

25 14. Code of Federal Regulations, title 21, section 1317.30 provides, in pertinent part:

26 “(a) The following persons are authorized to collect controlled substances from ultimate
27 users and other non-registrants for destruction in compliance with this chapter:

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1 “(1) Any registrant authorized by the Administration to be a collector pursuant to
2 § 1317.40; and

3 “(2) Federal, State, tribal, or local law enforcement when in the course of official duties and
4 pursuant to § 1317.35.”

5 15. Code of Federal Regulations, title 21, section 1306.22 provides, in pertinent part:

6 “(f) As an alternative to the procedures provided by paragraphs (a) through (e) of this
7 section, a computer application may be used for the storage and retrieval of refill information for
8 original paper prescription orders for controlled substances in Schedule III and IV, subject to the
9 following conditions:

10 ...

11 “(3) Documentation of the fact that the refill information entered into the computer each
12 time a pharmacist refills an original paper, fax, or oral prescription order for a Schedule III or IV
13 controlled substance is correct must be provided by the individual pharmacist who makes use of
14 such an application. If such an application provides a hard-copy printout of each day’s controlled
15 substance prescription order refill data, that printout shall be verified, dated, and signed by the
16 individual pharmacist who refilled such a prescription order. The individual pharmacist must
17 verify that the data indicated are correct and then sign this document in the same manner as he
18 would sign a check or legal document (e.g., J.H. Smith, or John H. Smith). This document shall
19 be maintained in a separate file at that pharmacy for a period of two years from the dispensing
20 date. This printout of the day’s controlled substance prescription order refill data must be
21 provided to each pharmacy using such a computerized application within 72 hours of the date on
22 which the refill was dispensed. It must be verified and signed by each pharmacist who is
23 involved with such dispensing. In lieu of such a printout, the pharmacy shall maintain a bound
24 log book, or separate file, in which each individual pharmacist involved in such dispensing shall
25 sign a statement (in the manner previously described) each day, attesting to the fact that the refill
26 information entered into the computer that day has been reviewed by him and is correct as shown.
27 Such a book or file must be maintained at the pharmacy employing such an application for a
28 period of two years after the date of dispensing the appropriately authorized refill.”

1 **COSTS**

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

6 **FACTUAL BACKGROUND**

7 17. On or about November 2, 2016, two Board inspectors performed an inspection at
8 Respondent Pharmacy. During the inspection, the inspectors discovered twenty-three (23) boxes
9 full of drugs that had been returned to Respondent Pharmacy for destruction. Some of those
10 boxes contained controlled substances. Respondent Pharmacy is not authorized to collect
11 controlled substances for destruction.

12 18. On or about November 16, 2016, a representative from Respondent Pharmacy
13 provided one of the inspectors with a log purportedly containing prescription order refill data for
14 Schedule III and IV controlled substances from October 2016. That log did not contain a daily
15 statement signed by all of the pharmacists involved in the dispensing of those refills attesting to
16 the fact that the refill information entered into the pharmacy's computer that day had been
17 reviewed by the pharmacists and was correct as shown.

18 19. Respondent Pharmacy provided one of the inspectors with purchasing and dispensing
19 information from May 24, 2015, through November 2, 2016, for certain drugs that were present at
20 Respondent Pharmacy during the inspection. The inspector performed an audit of that
21 information. The results of the audit indicated that there were shortages of four (4) drugs and
22 overages of thirteen (13) drugs. A shortage occurs when a pharmacy purchases more drugs than
23 it dispenses. An overage occurs when a pharmacy dispenses more drugs than it purchased.

24 **FIRST CAUSE FOR DISCIPLINE**

25 **(Failure to Maintain Current Inventory of Dangerous Drugs)**

26 20. Respondent Pharmacy's, Respondent Basrai's, and Respondent Eitoku's licenses are
27 subject to disciplinary action under sections 4301, subdivisions (j) and/or (o), 4081, subdivisions
28 (a) and (b), and 4113, subdivision (c) of the Code, and California Code of Regulations, title 16,

1 section 1718, in that Respondent Pharmacy failed to maintain a current inventory of dangerous
2 drugs. The circumstances of this conduct are set forth above in Paragraphs 17-19.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Unauthorized Collection of Controlled Substances for Destruction)**

5 21. Respondent Pharmacy's and Respondent Eitoku's licenses are subject to disciplinary
6 action under sections 4301, subdivision (o) and 4113, subdivision (c) of the Code, and Code of
7 Federal Regulations, title 21, section 1317.30, in that Respondent Pharmacy engaged in the
8 unauthorized collection of controlled substances for destruction. The circumstances of this
9 conduct are set forth above in Paragraphs 17-19.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Failure to Maintain Documentation of Refill Information for Schedule III and IV 12 Controlled Substances)**

13 22. Respondent Pharmacy's, Respondent Basrai's, and Respondent Eitoku's licenses are
14 subject to disciplinary action under sections 4301, subdivision (o) and 4113, subdivision (c) of the
15 Code, and Code of Federal Regulations, title 21, section 1306.22, subdivision (f)(3), in that for
16 the month of October 2016, Respondent Pharmacy failed to maintain a printout of the pharmacy's
17 daily prescription order refill data for Schedule III and IV controlled substances that was verified,
18 dated, and signed by the individual pharmacist(s) who refilled the prescription orders; and/or
19 Respondent Pharmacy failed to maintain a bound log book, or separate file, in which each
20 individual pharmacist(s) involved in dispensing controlled substance prescription refills signed a
21 statement each day that month attesting to the fact that the refill information entered into the
22 computer that day had been reviewed by him or her and was correct as shown. The
23 circumstances of this conduct are set forth above in Paragraphs 17-19.

24 **OTHER MATTERS**

25 23. Pursuant to section 4307 of the Code, if discipline is imposed on Original Permit
26 Number PHY 50018 issued to GSB Pharmaceutical Enterprises dba Alisal LTC Pharmacy while
27 Gurpartap Singh Basrai was an officer or owner of GSB Pharmaceutical Enterprises dba Alisal
28 LTC Pharmacy and had knowledge of or knowingly participated in any conduct for which

1 Original Permit Number PHY 50018 was disciplined, Gurpartap Singh Basrai shall be prohibited
2 from serving as a manager, administrator, owner, member, officer, director, associate, or partner
3 of a licensee for five years if Original Permit Number PHY 50018 is placed on probation or until
4 Original Permit Number PHY 50018 is reinstated if it is revoked.

5 DISCIPLINE CONSIDERATIONS

6 24. To determine the degree of discipline, if any, to be imposed on Respondent Basrai,
7 Complainant alleges that on or about March 2, 2001, in a prior disciplinary action entitled *In the*
8 *Matter of the Accusation Against Gurpartap Singh Basrai*, before the Board, in Case Number
9 2231, Respondent Basrai's Original Pharmacist License Number RPH 31057 was placed on three
10 years probation subject to certain terms and conditions. That decision is now final and is
11 incorporated by reference as if fully set forth in this Accusation.

12 25. To determine the degree of discipline, if any, to be imposed on Respondent Basrai,
13 Complainant further alleges that on or about August 27, 2014, in Case No. CI 2011 49013, the
14 Board issued a Citation and Fine to Respondent Basrai based on violations of sections 4301,
15 subdivision (g) (knowingly making or signing any certificate or other document that falsely
16 represents the existence or nonexistence of a state of facts) and 4201, subdivision (i) (failure to
17 report a change in the proposed beneficial ownership interest to the Board within thirty (30) days)
18 of the Code. That Citation and Fine is now final and is incorporated by reference as if fully set
19 forth in this Accusation.

20 PRAYER

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

- 23 1. Revoking or suspending Original Permit Number PHY 50018 issued to GSB
24 Pharmaceutical Enterprises dba Alisal LTC Pharmacy, Gurpartap Singh Basrai, President and
25 Secretary;
- 26 2. Revoking or suspending Pharmacist License Number RPH 31057 issued to Gurpartap
27 Singh Basrai;

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1 3. Revoking or suspending Pharmacist License Number RPH 39910 issued to Jane Chin
2 Eitoku;

3 4. Prohibiting Gurpartap Singh Basrai from serving as a manager, administrator, owner,
4 member, officer, director, associate, or partner of a licensee for five years if Original Permit
5 Number PHY 50018 is placed on probation or until Original Permit Number PHY 50018 is
6 reinstated if Original Permit Number 50018 issued to GSB Pharmaceutical Enterprises dba Alisal
7 LTC Pharmacy is revoked;

8 5. Ordering Respondents to pay the Board of Pharmacy the reasonable costs of the
9 investigation and enforcement of this case pursuant to Business and Professions Code section
10 125.3; and

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

12
13 DATED: 2/14/18



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

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