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

11 In the Matter of the Statement of Issues
Against:
12 **ST. MINA, INC. DBA ST. MINA**
13 **PHARMACY #2,**
14 **SAMIA HAKIM ABADIER, NADER**
15 **ERIAN ABADIER, LAWRENCE NADER**
ABADIER, MARK NADER ABADIER,
OWNERS
16 **Community Pharmacy Permit License**
Applicant
17
18 Respondents.

Case No. 5767

STATEMENT OF ISSUES

19
20 Complainant alleges:

21 **PARTIES**

- 22 1. Virginia Herold (“Complainant”) brings this Statement of Issues solely in her official
23 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
24 2. On or about December 7, 2015, the Board of Pharmacy, Department of Consumer
25 Affairs received an application for a Community Pharmacy Permit License from St. Mina, Inc.
26 dba St. Mina Pharmacy #2, Samia Hakim Abadier, Nader Erian Abadier, Mark Nader Abadier,
27 Lawrence Naded Abadier (“Respondents”). On or about December 5, 2015, Respondents

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1 certified under penalty of perjury to the truthfulness of all statements, answers, and
2 representations in the application. The Board denied the application on January 29, 2016.

3 JURISDICTION

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

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

10 STATUTORY AND REGULATORY PROVISIONS

11 5. Section 480 of the Code states:

12 (a) A board may deny a license regulated by this code on the grounds that the
13 applicant has one of the following:

14 (1) Been convicted of a crime. A conviction within the meaning of this section
15 means a plea or verdict of guilty or a conviction following a plea of nolo
16 contendere. Any action that a board is permitted to take following the establishment
17 of a conviction may be taken when the time for appeal has elapsed, or the judgment
18 of conviction has been affirmed on appeal, or when an order granting probation is
19 made suspending the imposition of sentence, irrespective of a subsequent order
20 under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

21 (2) Done any act involving dishonesty, fraud, or deceit with the intent to
22 substantially benefit himself or herself or another, or substantially injure another.

23 (3) (A) Done any act that if done by a licentiate of the business or profession in
24 question, would be grounds for suspension or revocation of license.

25 (B) The board may deny a license pursuant to this subdivision only if the crime or
26 act is substantially related to the qualifications, functions, or duties of the business
27 or profession for which application is made.

28 (b) Notwithstanding any other provision of this code, a person shall not be denied a
license solely on the basis that he or she has been convicted of a felony if he or she
has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with
Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been
convicted of a misdemeanor if he or she has met all applicable requirements of the
criteria of rehabilitation developed by the board to evaluate the rehabilitation of a
person when considering the denial of a license under subdivision (a) of Section
482.

(c) Notwithstanding any other provisions of this code, a person shall not be denied a
license solely on the basis of a conviction that has been dismissed pursuant to

1 Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a
2 conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41
3 of the Penal Code shall provide proof of the dismissal.

4 (d) A board may deny a license regulated by this code on the ground that the
5 applicant knowingly made a false statement of fact that is required to be revealed in
6 the application for the license.

6. Section 4113 subdivision (c) of the Code states:

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

9 7. California Code of Regulations, title 16, section 1714 subdivisions (b) and (d), state:

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

14 (d) Each pharmacist while on duty shall be responsible for the security of the
15 prescription department, including provisions for effective control against theft or
16 diversion of dangerous drugs and devices, and records for such drugs and devices.
17 Possession of a key to the pharmacy where dangerous drugs and controlled
18 substances are stored shall be restricted to a pharmacist.

17 CONTROLLED SUBSTANCE / DANGEROUS DRUG

18 8. Section 4021 of the Code states, in pertinent part:

19 "Controlled substances: means any substance listed in Chapter 2 (commencing with Section
20 11053) of Division 10 of the Health and Safety Code."

21 9. Section 4022 of the Code states:

22 'Dangerous drug' or 'dangerous device' means any drug or device unsafe for
23 self-use in humans or animals, and includes the following:

24 (a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing
25 without prescription,' 'Rx only,' or words of similar import.

26 (b) Any device that bears the statement: 'Caution: federal law restricts this device to
27 sale by or on the order of a _____,' 'Rx only,' or words of similar import, the
28 blank to be filled in with the designation of the practitioner licensed to use or order
use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed
only on prescription or furnished pursuant to Section 4006.

1 10. Code of Federal Regulations, title 21, section 1308.12, states:

2 (a) Schedule II shall consist of the drugs and other substances, by whatever official
3 name, common or usual name, chemical name, or brand name designated, listed in
4 this section. Each drug or substance has been assigned the Controlled Substances
5 Code Number set forth opposite it.

6 (b) Substances, vegetable origin or chemical synthesis. Unless specifically excepted
7 or unless listed in another schedule, any of the following substances whether
8 produced directly or indirectly by extraction from substances of vegetable origin, or
9 independently by means of chemical synthesis, or by a combination of extraction
10 and chemical synthesis:

11 (1) Opium and opiate, and any salt, compound, derivative, or preparation of opium
12 or opiate excluding apomorphine, thebaine-derived butorphanol, dextrophan,
13 nalbuphine, nalmefene, naloxegol, naloxone, and naltrexone, and their respective
14 salts, but including the following:

15 ...

16 (vi) Hydrocodone

17 11. "Hydrocodone/Acetaminophen" or "HC/APAP", with trade names of Norco, Lortab,
18 and Vicodin, are Schedule III controlled substances pursuant to Health and Safety Code section
19 11056(e)(4), and are categorized as dangerous drugs pursuant to section 4022. Effective October
20 6, 2014, federal law rescheduled hydrocodone/acetaminophen to a schedule II controlled
21 substance, Code of Federal Regulations, title 21, section 1308.12, subdivision, (b)(1)(vi).

22 FACTUAL ALLEGATIONS

23 12. Beginning on or about October 3, 2011, Respondent Samia Abadier became the
24 pharmacist-in-charge ("PIC") of St. Mina Pharmacy located in Fontana, CA ("St. Mina
25 Pharmacy-Fontana"). Respondent Samia Abadier is also the Chief Executive Officer and owner
26 of 30 percent of the outstanding shares; Nader Erian Abadier is the Director and owner of 30
27 percent of the outstanding shares; Lawrence Nader Abadier is the Secretary and owner of 20
28 percent of the outstanding shares; and Mark Mader Abadier is the Treasurer/Chief Financial
Officer of St. Mina Pharmacy-Fontana.

13. From June 13, 2013, until November 5, 2014, St. Mina Pharmacy-Fontana did not
maintain adequate security for controlled substances, and as a result, there was a loss of 54,226
tablets of controlled substance HC/APAP 10/325 mg, aka Norco, in St. Mina Pharmacy-Fontana's
inventory.

1 14. Noemi Acevedo ("Acevedo") was employed as a pharmacy technician¹ with St. Mina
2 Pharmacy-Fontana from December 12, 2012 to November 5, 2014.

3 15. On or about October 31, 2014, while the pharmacist on duty left to use the restroom,
4 video surveillance recorded Acevedo taking a 1,000-tablet-count bottle of Norco, and placing it
5 under the bumble bee costume she was wearing.

6 16. On or about November 5, 2014, Respondent Samia Abadier discovered a loss of two
7 1,000-tablet-count bottles of Norco, and reported the theft to the Fontana Police Department.

8 17. On or about November 5, 2014, a Fontana police officer contacted Acevedo at her
9 residence. Acevedo admitted to taking the bottle of Norco on October 31, 2014. She further
10 admitted that she gave the bottle of Norco to her aunt to take to Mexico and that her aunt was
11 supposed to give her \$300 for the bottle.

12 18. On or about November 14, 2014, the Board received notification from Respondent
13 Samia Abadier that Acevedo stole 14,000 tablets of Norco from St. Mina Pharmacy-Fontana.

14 19. On or about December 7, 2014, Respondent Samia Abadier contacted the Fontana
15 Police department to correct her previous statement in that fourteen 1000-tablet-count bottles of
16 Norco was taken from St. Mina Pharmacy-Fontana and was worth approximately \$25,000.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Lack of Operational Standards and Security)**

19 20. Respondent St. Mina Pharmacy is subject to disciplinary action under Code section
20 4301, subdivision (o), in conjunction with California Code of Regulations, title 16, section 1714,
21 subdivision (b), in that it failed to maintain effective control on the security of the prescription
22 department against theft or loss of controlled substances and dangerous drugs. Specifically, they
23 did not provide adequate security and failed to account for 54,226 tablets of
24 hydrocodone/acetaminophen 10/325 mg. Complainant refers to and by this reference
25 incorporates allegations of paragraphs 12 through 19, above as though fully set forth.

26 _____
27 ¹ Acevedo's Pharmacy Technician Registration No. TCH 81339 was revoked pursuant to a
28 Default Decision and Order which became effective on February 19, 2016, in Board of Pharmacy
Case No. 5099, *In the Matter of the First Amended Accusation Against Noemi Acevedo*.

1 SECOND CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

3 21. Respondent's application is subject to denial under Code sections 480, subdivision
4 (a)(3) and 4301, subdivision (o), in conjunction with California Code of Regulations, title 16,
5 section 1714, subdivision (b) and (d), in that, Respondent has done an act that if done by a
6 licentiate, would be grounds for suspension or revocation. Complainant refers to and by this
7 reference incorporates allegations of paragraphs 12 through 20, above as though fully set forth.

8 PRAYER

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

11 1. Denying the application of St. Mina, Inc. dba St. Mina Pharmacy #2, Samia Hakim
12 Abadier, Nader Erian Abadier, Mark Nader Abadier, Lawrence Naded Abadier for a Community
13 Pharmacy Permit License; and,

14 2. Taking such other and further action as deemed necessary and proper.

15
16 DATED: 4/13/17



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

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