

1 BILL LOCKYER, Attorney General  
of the State of California  
2 CHRISTINA M. NEBELING, State Bar No. 171168  
Deputy Attorney General  
3 California Department of Justice  
300 South Spring Street, Suite 1702  
4 Los Angeles, California 90013  
Telephone: (213) 897-2557  
5 Facsimile: (213) 897-2804  
6 Attorneys for Complainant

7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. AC-2352

12 **SANTA MONICA DISCOUNT PHARMACY**  
13 **dba SANTA MONICA DISCOUNT**  
**PHARMACY INC.**

14 7701 Santa Monica Blvd.  
West Hollywood, CA 90046  
15 **MARINA YURI KRITCHEVSKAYA**  
President/owner  
16 **SEMEN GEROV**, Secretary/Owner

17 Original Pharmacy Permit Number  
PHY 42185

18 and

19 **MARINA YURI KRITCHEVSKAYA**  
11206 Dona Lola Drive  
20 Diamond Bar, CA 91765  
Pharmacist-in-Charge

21 Original Pharmacist License No. RPH 47097

22 and

23 **SEMEN GEROV**  
24 2401 Hercules Drive  
Los Angeles, CA 90046

25 Original Pharmacy Technician Registration  
26 No. TCH 8479

27 Respondents.

28

**STIPULATION IN SETTLEMENT  
AND DECISION**

1 In the interest of a prompt and speedy settlement of this matter, consistent with  
2 the public interest and the responsibility of the Board of Pharmacy, Department of Consumer  
3 Affairs (hereinafter referred to as "Board"), the parties submit this Stipulation and Decision to the  
4 Board for its approval and adoption as the final disposition of the Accusation.

5 1. Accusation No. AC-2352, is currently pending against Marina Yuri  
6 Kritchevskaya (hereinafter "Respondent Kritchevskaya"), Semon Gerov (hereinafter  
7 "Respondent Gerov"), Santa Monica Discount Pharmacy (hereinafter "Respondent Santa Monica  
8 Discount Pharmacy"), and before the Board. The Accusation, together with all other statutorily  
9 required documents, was duly served on Respondents on or about January 25, 2001, and  
10 Respondents filed their Notice of Defense contesting the Accusation on or about February 15,  
11 2001. A copy of Accusation No. AC-2352 is attached as Attachment "A" and incorporated by  
12 reference as if fully set forth.

13 2. On August 20, 1998, the Board issued Original Pharmacy Permit Number  
14 PHY 42185 to Santa Monica Discount Pharmacy, to do business as Santa Monica Discount  
15 Pharmacy, Inc. The address of record being 7701 Santa Monica Blvd., West Hollywood, CA  
16 90046. The corporate officers and owners since August 20, 1998, are shown as,  
17 Marina Kritchevskaya, President, 50% ownership and Semen Gerov, Secretary, 50% ownership.  
18 The Original Pharmacy Permit Number was in full force and effect at all times relevant to the  
19 charges brought herein and will expire on August 1, 2001, unless renewed.

20 On May 17, 1994, the Board issued Original Pharmacist License Number  
21 RPH 47097 to Marina Yuri Kritchevskaya to practice pharmacy. Respondent has been the  
22 Pharmacist-in-Charge for Respondent Santa Monica Discount Pharmacy, since August 20, 1998.  
23 The registration was in full force and effect at all times relevant to the charges brought herein and  
24 will expire on August 31, 2001, unless renewed.

25 On July 13, 1993, the Board issued Original Pharmacy Technician Registration  
26 Number TCH 8479 to Semen Gerov to act as a pharmacy technician. The registration was in full  
27 force and effect at all times relevant to the charges brought herein and will expire on  
28 August 31, 2001, unless renewed.

1                   3.       On January 12, 2001, a Petition for Interim Suspension Order in Case No.  
2 LA-2000100579 was granted and an Order Suspending Respondents from practicing pharmacy  
3 was issued, pending the filing of this Accusation.

4                   4.       Respondents are represented by Tom Curtis, Esq. Respondents have fully  
5 and completely reviewed this Stipulation with counsel and understand its effects.

6                   5.       Respondents understand the nature of the charges alleged in the  
7 Accusation and that the charges and allegations constitute cause for imposing discipline upon  
8 their licenses to practice pharmacy. Respondents are fully aware of their right to a hearing on the  
9 charges and allegations contained in said Accusation, their right to reconsideration, appeal and  
10 all other rights accorded pursuant to the California Business and Professions Code and  
11 Government Code and freely and voluntarily waive such rights.

12                  6.       Respondents admit the truth of each and every allegation of Accusation  
13 No. AC-2352 and agree that they have thereby subjected their licenses to discipline.  
14 Respondents agree to the Board's imposition of penalty as set out in the Order below.

15                  7.       Admissions made by Respondents herein are for purposes of this  
16 proceeding, for any other disciplinary proceedings by the Board, and for any petition for  
17 reinstatement, reduction of penalty, or application for relicensure, and shall have no force or  
18 effect in any other case or proceeding.

19                  8.       It is understood by Respondents that, in deciding whether to adopt this  
20 Stipulation, the Board may receive oral and written communications from its staff and the  
21 Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the  
22 Board or other persons from future participation in this or any other matter affecting  
23 Respondents. In the event this settlement is not adopted by the Board, the Stipulation will not  
24 become effective and may not be used for any purpose, except for this paragraph, which shall  
25 remain in effect.

26                  9.       In consideration of the foregoing admissions and findings, the parties  
27 agree that the Board may, without further notice or formal proceeding, issue and enter an Order  
28 as follows:

1 **ORDER**

2 A. IT IS HEREBY ORDERED that Original Pharmacist License No. RPH  
3 47097 issued to Marina Yuri Kritchevskaya, Original Pharmacy Technician Registration No.  
4 TCH 8479 issued to Semen Gerov and Original Pharmacy Permit Number PHY 42185 issued to  
5 Santa Monica Discount Pharmacy are revoked.

6 B. The revocation, however, is stayed and Respondents are placed on  
7 probation for three (3) years on the following terms and conditions:

8 1. **ACTUAL SUSPENSION -**

9 **PHARMACIST AND PHARMACY TECHNICIAN**

10 As part of probation, Respondents are suspended from the practice of pharmacy  
11 for 60 days beginning the effective date of this decision.

12 During suspension, Respondents shall not enter any pharmacy area or any portion  
13 of the licensed premises of a wholesaler, medical device retailer or any other distributor of  
14 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs,  
15 controlled substances or legend drugs are maintained. Respondents shall not practice pharmacy  
16 nor do any act involving drug selection, selection of stock, manufacturing, compounding,  
17 dispensing or patient consultation; nor shall Respondents manage, administer, or be a consultant  
18 to, any licensee of the Board, or have access to, or control the ordering, manufacturing or  
19 dispensing of dangerous drugs or controlled substances of dangerous drugs or controlled  
20 substances. Respondents shall not direct or control any aspect of the practice of pharmacy.  
21 Subject to the above restrictions, Respondents may continue to own or hold an interest in any  
22 pharmacy in which he or she holds an interest at the time this Decision becomes effective.

23  
24 **ACTUAL SUSPENSION - PREMISES**

25 As part of probation, Respondent pharmacy is suspended from the operation of  
26 pharmacy for 60 days beginning the effective date of this Decision.

27 During suspension, Respondent pharmacy may not order, maintain or dispose of  
28 any dangerous drugs or devices or controlled substances. The pharmacy may not make demand

1 or bill for any drugs or services during the period of suspension and may not process any claims  
2 for pharmacy services during the period of suspension, except as to services rendered prior to  
3 the effective date of the suspension period. The pharmacy shall not receive or transmit any  
4 prescription, new or refill, during the period of suspension. Where the pharmacy does not  
5 maintain dangerous drugs or devices or controlled substances in an area which can be closed  
6 off from the rest of the pharmacy and locked, the entire pharmacy must be closed during the  
7 period of suspension.

8 **2. POSTED NOTICE OF SUSPENSION**

9 Respondent Pharmacy shall prominently post a suspension notice provided by the  
10 Board in a place conspicuous and readable to the public. The suspension notice shall remain so  
11 posted during the entire period of actual suspension.

12 Respondent shall not, directly or indirectly, engage in any conduct or make any  
13 statement which is intended to mislead or is likely to have the effect of misleading any  
14 patient, customer, member of the public, or other person as to the nature of and reason for the  
15 closure of the licensed entity.

16 **3. OBEY ALL LAWS**

17 Respondents shall obey all federal and state laws and regulations substantially  
18 related or governing the practice of pharmacy.

19 **4. REPORTING TO THE BOARD**

20 Respondents shall report to the Board or its designee quarterly. Said report shall  
21 be made either in person or in writing, as directed. If the final probation report is not made  
22 as directed, the period of probation shall be extended automatically until such time as the final  
23 report is made.

24 **5. INTERVIEW WITH THE BOARD**

25 Upon receipt of reasonable notice, Respondents shall appear in person for  
26 interviews with the Board or its designee upon request at various intervals at a location to be  
27 determined by the Board or its designee. Failure to appear for a scheduled interview without  
28 prior notification to Board staff shall be considered a violation of probation.

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**6. COOPERATION WITH BOARD STAFF**

Respondents shall cooperate with the Board's inspectional program and in the Board's monitoring and investigation of the Respondents' compliance with the terms and conditions of their probation. Failure to cooperate shall be considered a violation of probation.

**7. PEER REVIEW**

Respondents shall submit to peer review as deemed necessary by the Board.

**8. CONTINUING EDUCATION**

Respondents shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board.

**9. NOTICE TO EMPLOYERS**

Respondents shall notify all present and prospective employers of the Decision in case No. AC-2352 and the terms, conditions and restrictions imposed on Respondents by the Decision. Within thirty (30) days of the effective date of this Decision, and within fifteen (15) days of Respondents undertaking new employment, Respondents shall cause his or her employer to report to the Board in writing acknowledging the employer has read the Decision in case No. AC-2352.

If Respondents work for, or are employed by or through a pharmacy employment service, Respondents must notify the pharmacist-in-charge and/or owner at every pharmacy at which he or she is to employed or used of the fact and terms of the Decision in Accusation No. AC-2352 in advance of the Respondents commencing work at the pharmacy.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary or relief service or pharmacy management service as a pharmacist, whether Respondents are considered employees or independent contractors.

**10. NO PRECEPTORSHIPS, SUPERVISION OF INTERNS, BEING PHARMACIST-IN-CHARGE**

Respondent shall not supervise any intern pharmacist or perform any of the duties of a preceptor. Respondent may be a pharmacist-in-charge; however, Respondent shall retain an independent consultant at his or her own expense who shall be responsible for reviewing

1 pharmacy operations on a quarterly basis for compliance by Respondent with state and federal  
2 laws and regulations governing pharmacy and for compliance by Respondent with the  
3 obligations of a pharmacist-in-charge. The consultant shall be a pharmacist licensed by and not  
4 on probation to the Board and whose name shall be submitted to the Board for its approval  
5 within thirty (30) days of the effective date of this decision. Respondent shall not be a  
6 pharmacist-in-charge at more than one pharmacy or any pharmacy of which he/she is not the sole  
7 owner. This term and condition shall be required for one (1) year from the effective date of this  
8 Decision.

9 **11. REIMBURSEMENT OF BOARD COSTS**

10 Respondents shall pay to the Board its costs of investigation and prosecution in  
11 the amount of fifteen thousand dollars (\$15,000.00). Respondents shall make said payments as  
12 follows: Payment shall be made on a quarterly basis, beginning September 30, 2001 and ending  
13 24 months after the effective date of this Decision.

14 If Respondents fail to pay the costs as specified by the Board and on or before the  
15 date(s) determined by the Board, the Board shall, without affording the Respondents notice and  
16 the opportunity to be heard, revoke probation and carry out the disciplinary order that was  
17 stayed.

18 **12. PROBATION MONITORING COSTS**

19 Respondents shall pay the costs associated with probation monitoring as  
20 determined by the Board each and every year of probation. Such costs shall be payable to the  
21 Board at the end of each year of probation. Failure to pay such costs shall be considered a  
22 violation of probation.

23 **13. STATUS OF LICENSE**

24 Respondents shall, at all times while on probation, maintain active current  
25 licenses with the Board, including any period during which suspension or probation is tolled.

26 If Respondents' licenses expire by operation of law or otherwise, upon renewal or  
27 reapplication, Respondents' licenses shall be subject to all terms of this probation not previously  
28 satisfied.

1 Respondent pharmacy shall, at all times while on probation, maintain a current  
2 license with the Board. If Respondent pharmacy submits an application to the Board, and the  
3 application is approved, for a change of location, change or permit or change of ownership, the  
4 Board shall retain continuing jurisdiction over the license, and Respondent shall remain on  
5 probation as determined by the Board or its designee.

6 **14. NOTIFICATION OF EMPLOYMENT/MAILING ADDRESS**  
7 **CHANGE**

8 Within ten (10) days of a change in employment -- either leaving or  
9 commencing employment -- Respondents shall so notify the Board in writing, including the  
10 address of the new employer; within ten (10) days of a change of mailing address, Respondents  
11 shall notify the Board in writing. If Respondents work for or are employed through a pharmacy  
12 employment service, Respondents shall, as requested, provide to the Board or its designee with  
13 a work schedule, indicating dates and location of employment.

14 **15. TOLLING OF PROBATION**

15 If Respondents leave California to reside or practice outside this state,  
16 Respondents must notify the Board in writing of the dates of departure and return within ten (10)  
17 days of departure or return. Periods of residency, except such periods where the Respondents are  
18 actively practicing pharmacy within California, or practice outside California, shall not apply to  
19 reduction of the probationary period.

20 Should Respondents, regardless of residency, for any reason cease practicing  
21 pharmacy in California, Respondents must notify the Board in writing within ten (10) days of  
22 cessation of the practice of pharmacy or resuming the practice of pharmacy. "Cessation of  
23 practice" means any period of time exceeding thirty (30) days in which Respondents are not  
24 engaged in the practice of pharmacy as defined in section 4052 of the Business and Professions  
25 Code.

26 It is a violation of probation for Respondents' probation to remain tolled pursuant  
27 to the provisions of this condition for a period exceeding a consecutive period of three years.

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**16. TOLLING OF SUSPENSION**

If Respondents leave California to reside or practice outside this state, or for any period exceeding ten (10) days (including vacation), Respondents must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside of the state or any absence exceeding a period of ten (10) days shall not apply to the reduction of the suspension period.

Respondents shall not practice pharmacy upon returning to this state until notification by the Board that the period of suspension has been completed.

**17. NOTICE TO EMPLOYEES**

Respondent Santa Monica shall, upon or before the effective date of this Decision, ensure that all employees involved in permit operations are made aware of all the terms and conditions of probation, either by posting a notice of the conditions of the terms and conditions, circulating such notice, or both. If the notice required by this provision is posted, it shall be posted in a prominent place and shall remain posted throughout probation. Respondent Santa Monica shall ensure that any employees hired or used after the effective date of this Decision are made aware of all the terms and conditions by posting a notice, circulating a notice, or both.

"Employees" as used in this provision includes all full-time, part-time, temporary and relief employees and independent contractors employed or hired at any time during probation.

**18. OWNERS AND OFFICERS: KNOWLEDGE OF THE LAW**

Respondents shall provide, within thirty (30) days after the effective date of this Decision, signed and dated statements from its owners, including any owner or holder of 10% or more of the interest in Respondent or Respondent's stock, and any officer, stating said individuals have read and are familiar with federal and state laws and regulations governing the practice of pharmacy.

**19. VIOLATION OF PROBATION**

If Respondents violate probation in any respect, the Board, after giving Respondents notice and an opportunity to be heard, may revoke probation and carry out the

1 disciplinary order which was stayed. If a petition to revoke probation or an accusation is filed  
2 against Respondents during probation, the Board shall have continuing jurisdiction, and the  
3 period of probation shall be extended, until the petition to revoke probation is heard and decided.  
4 If Respondents have not complied with any term or condition of probation, the Board shall have  
5 continuing jurisdiction over Respondents and probation shall automatically be extended until all  
6 terms and conditions have been met or the Board has taken other action as deemed appropriate to  
7 treat the failure to comply as a violation of probation, to terminate probation, and to impose the  
8 penalty which was stayed.

9 **20. COMPLETION OF PROBATION**

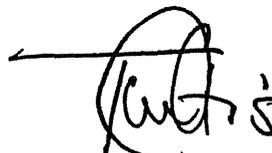
10 Upon successful completion of probation, Respondents' licenses will be fully  
11 restored.

12  
13 C. Accusation No. AC-2352 Paragraphs No.16 through 39, inclusive, are  
14 admitted.

15 D. The within Stipulation shall be subject to the approval of the Board. If the  
16 Board fails to adopt this Stipulation as its Order, the Stipulation shall be of no force or effect for  
17 either party.

18 I concur in the Stipulation and Order.

19  
20 DATED: 3/15/01

21  
22  
23 

24 TOM CURTIS, ESQ.  
25 Attorney for Respondents  
26  
27  
28

1 I have carefully read and fully understand the Stipulation and Order set forth  
2 above and the terms and conditions thereof. I understand that in signing this Stipulation I am  
3 waiving my right to a hearing on the charges set forth in the Accusation on file in this matter. I  
4 further understand that in signing this Stipulation, the Board may enter the foregoing Order  
5 placing certain requirements, restrictions and limitations on my right to practice pharmacy in the  
6 State of California.

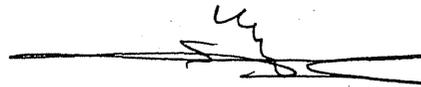
7 DATED: 3/15/2001.

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10 MARINA YURI KRITCHEVSKAYA  
11 Respondent

12  
13  
14 I have carefully read and fully understand the Stipulation and Order set forth  
15 above and the terms and conditions thereof. I understand that in signing this Stipulation I am  
16 waiving my right to a hearing on the charges set forth in the Accusation on file in this matter. I  
17 further understand that in signing this Stipulation, the Board may enter the foregoing Order  
18 placing certain requirements, restrictions and limitations on my right to practice pharmacy in the  
19 State of California.

20 DATED: 3/15/01.

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23 SEMEN GEROV  
24 Respondent

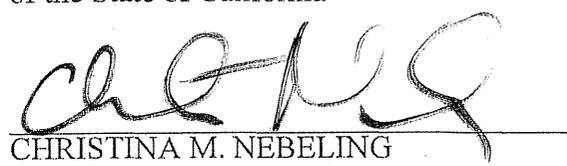
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ENDORSEMENT

The foregoing Stipulation in Settlement and Decision is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: 3/16/01.

BILL LOCKYER, Attorney General  
of the State of California

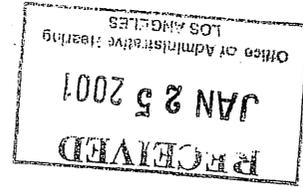


CHRISTINA M. NEBELING  
Deputy Attorney General

Attorneys for Complainant



1 BILL LOCKYER, Attorney General  
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Deputy Attorney General, State Bar No. 171168  
3 Department of Justice  
300 South Spring Street, Suite 500  
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6 Attorney for Complainant  
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9 **BOARD OF PHARMACY**  
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12 In the Matter of the Accusation Against:

**CASE NO. AC-2352**

13 SANTA MONICA DISCOUNT PHARMACY  
14 d.b.a SANTA MONICA DISCOUNT  
15 PHARMACY, INC.  
16 7701 Santa Monica Blvd.  
17 West Hollywood, California 90046  
18 MARINA YURI KRITCHEVSKAYA  
19 President/Owner  
20 SEMEN GEROV, Secretary/Owner

**ACCUSATION**

21 Original Pharmacy Permit Number  
22 PHY 42185

and

23 MARINA YURI KRITCHEVSKAYA  
24 11206 Dona Lola Drive  
25 Diamond Bar, CA 91765  
26 Pharmacist-in-Charge  
27 Original Pharmacist License No.  
RPH 47097

and

SEMEN GEROV  
2401 Hercules Drive  
Los Angeles, CA 90046

Original Pharmacy Technician Registration  
No. TCH 8479

Respondents.

1 Patricia F. Harris, for causes for discipline alleges:

2 1. Complainant Patricia F. Harris makes and files this Accusation in her  
3 official capacity as Executive Officer, State Board of Pharmacy (hereinafter the  
4 "Board"), Department of Consumer Affairs, State of California.

5 2. On August 20, 1998, the Board issued Original Pharmacy Permit  
6 Number PHY 42185 to Santa Monica Discount Pharmacy, to do business as Santa  
7 Monica Discount Pharmacy, Inc. (hereinafter Respondent "Santa Monica"). The  
8 address of record being 7701 Santa Monica Blvd., West Hollywood, CA 90046. The  
9 corporate officers and owners since August 20, 1998, are shown as, Marina  
10 Kritchevskaya, President, 50% ownership and Semen Gerov, Secretary, 50%  
11 ownership. The Original Pharmacy Permit Number was in full force and effect at all  
12 times relevant to the charges brought herein and will expire on August 1, 2001, unless  
13 renewed.

14 3. On May 17, 1994, the Board issued Original Pharmacist License  
15 Number RPH 47097 to Marina Yuri Kritchevskaya (hereinafter Respondent  
16 "Kritchevskaya") to practice pharmacy. Respondent has been the Pharmacist-in-  
17 Charge for Respondent Santa Monica, since August 20, 1998. The registration was in  
18 full force and effect at all times relevant to the charges brought herein and will expire  
19 on August 31, 2001, unless renewed.

20 4. On July 13, 1993, the Board issued Original Pharmacy Technician  
21 Registration Number TCH 8479 to Semen Gerov (hereinafter Respondent "Gerov") to  
22 act as a pharmacy technician. The registration was in full force and effect at all times  
23 relevant to the charges brought herein and will expire on March 31, 2001, unless  
24 renewed.

25 5. On January 12, 2001, a Petition for Interim Suspension Order in Case  
26 No. LA-2000100579 was granted and an Order Suspending Respondents from  
27 practicing pharmacy was issued, pending the filing of this Accusation.

## JURISDICTION

1  
2           6. Business and Professions Code section 118(b) (hereinafter the  
3 "Code") provides that the suspension, expiration, or forfeiture by operation of law of a  
4 license does not deprive the Board of authority or jurisdiction to institute or continue  
5 with disciplinary action against the license or to order suspension or revocation of the  
6 license, during the period within which the certificate may be renewed, restored,  
7 reissued or reinstated.

8           7. Section 4300 of the Code provides, in pertinent part, that every license  
9 issued by the Board is subject to discipline, including suspension or revocation.

10           8. Section 4301 of the Code provides, in pertinent part, that the Board  
11 **shall** take action against any holder of a license who is guilty of unprofessional conduct  
12 (emphasis added), which is defined to include, but is not limited to, the following:

13           (j) The violation of any of the statutes of this state or of the United States  
14 regulating controlled substances and dangerous drugs.

15           (l) The conviction of a crime substantially related to the qualifications,  
16 functions, and duties of a licensee under this chapter. The record of conviction shall be  
17 conclusive evidence of the fact that the conviction occurred.

18           (n) Violating or attempting to violate, directly or indirectly, or assisting in  
19 or abetting the violation of or conspiring to violate any provisions or term of this chapter  
20 or of the applicable federal or state laws and regulations governing pharmacy, including  
21 regulations established by the Board.

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

23           9. Pursuant to 490 of the Code, the Board may suspend or revoke a  
24 license when it finds that the licensee has been convicted of a crime, if the crime is  
25 substantially related to the qualifications, functions, or duties of that license.

26           10. Pursuant to Title 16, California Code of Regulations, section 1770, a  
27 crime shall be considered substantially related to the qualifications, functions, or duties

1 of a licensee if, to a substantial degree, it evidences present or potential unfitness of a  
2 licensee to perform the functions authorized by his or her license in a manner  
3 consistent with the public health, safety or welfare.

4 11. Section 125.3 provides, in part, that the Board may request the  
5 administrative law judge to direct any licentiate found to have committed a violation of  
6 the Licensing Act, to pay the Board a sum not to exceed the reasonable costs of the  
7 investigation and enforcement of the case.

#### 8 **CONTROLLED SUBSTANCE**

9 12. "Phenobarbital" is a Schedule IV narcotic controlled substance as  
10 defined by Health and Safety Code section 11057(d)(21) and is categorized as a  
11 "dangerous drug" pursuant to section 4022 of the Code.

12 13. "Corvalolum" is a foreign manufactured product, labeled only in  
13 Russian, containing Phenobarbital and would be a "dangerous drug" and controlled  
14 substance, if it were FDA-approved for the use in this country.

#### 15 **DANGEROUS DRUGS**

16 14. "Rubalettae Validoli" is a nitroglycerine-containing drug; it is foreign-  
17 manufactured, labeled only in Russian and would be a "dangerous drug" if it were FDA-  
18 approved for the use in this country.

19 15. "Nitroglycerine" is a "dangerous drug" pursuant to section 4022 of the  
20 Code.

#### 21 **CONVICTION OF A CRIME**

22 16. Respondents Kritchevskaya and Gerov have subjected their license  
23 to discipline pursuant to section 4301(l) and 490 in conjunction with Title 16, California  
24 Code of Regulations, section 1770 on the grounds of unprofessional conduct, in that  
25 Respondents were convicted of a crime substantially related to the qualifications,  
26 functions, or duties of a pharmacist and a pharmacist technician, by reason of the  
27 following:



1 Food and Drug Branch of the State Department of Health Services, and investigators of  
2 the Department's Division of Investigation or peace officers engaged in official  
3 investigations.

4 19. Section 4332 of the Code provides, in pertinent part:

5 "Any person who fails, neglects, or refuses to maintain the records  
6 required by Section 4081 or who, when called upon by an authorized officer or a  
7 member of the Board, fails, neglects, or refuses to produce or provide the records within  
8 a reasonable time, or who willfully produces or furnishes records that are false, is guilty  
9 of a misdemeanor."

10 20. Section 4333 of the Code provides, in pertinent part:

11 "All prescriptions filled by a pharmacy and all other records required by  
12 Section 4081 shall be maintained on the premises and available for inspection by  
13 authorized officers of the law for a period of at least three years. In cases where the  
14 pharmacy discontinues business, these records shall be maintained in a Board-licensed  
15 facility for at least three years."

16 21. Section 1718 of Title 16, California Code of Regulations, provides that  
17 "current inventory" within the meaning of Code section 4081, includes the complete  
18 accountability for all the pharmacy's acquisitions and dispositions. Board regulation  
19 1718 further provides that the controlled substance inventories required by Title 21,  
20 Code of Federal Regulations, section 1304 shall be available for inspection upon  
21 request for at least three (3) years after the date of the inventory.

22 22. Health and Safety Code Section 11352 provides that every person  
23 who transports, imports into this state, sells, furnishes, administers, or gives away, or  
24 attempts to import into this state or transport any controlled substance including those  
25 classified as Schedule III, IV, or V, which is a narcotic drug, unless upon the written  
26 prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this  
27 state, shall be punished by imprisonment in the state prison.



1 Respondents Kritchevskaya and Gerov were arrested for possession for sale of a  
2 controlled substance. Los Angeles County Department of Health issued Official Notices  
3 of Violation for the pharmacy clerk for furnishing a dangerous drug without a license.  
4 As part of the Official Notice of Violation there was a Cease and Desist Order.

5           29. On January 13, 2000, a Department of Health Services Investigator  
6 reviewed the prescription documents provided by Respondents. Of the 399  
7 prescription numbers listed that were to be located in the prescription files, 38 were  
8 missing. These documents showed the billings to the Medi-Cal program by  
9 Respondents, which revealed that of the 38 documents that were missing, 21 of those  
10 prescriptions were billed to Medi-Cal. Of those 21, 16 were listed by prescription  
11 number and were missing.

12           30. Investigation by Pharmacy Board Supervising Inspector Judi Nurse  
13 revealed all records of acquisition and disposition were not created or maintained for  
14 three (3) years, and misbranded, unapproved new drugs were stored in the pharmacy  
15 and were furnished without a valid prescription. The drugs sold were apparently  
16 illegally imported from Russia and other Eastern European countries. They were  
17 branded in the Russian language.

18           31. Moreover, the FDA declared one of the drugs, Corvalolum, to be an  
19 imminent public health hazard that could cause permanent disability or death. The FDA  
20 is charged with regulating drug manufacturing quality standards to ensure that:

- 21           • The manufacturing plant is clean and appropriate.
- 22           • A particular manufacturing plant is capable of manufacturing the  
23           specific drug in question, not just drugs in general.
- 24           • A particular drug is manufactured according to approved methods  
25           that guarantee its potency.
- 26           • There are no contaminants or manufacturing errors in the process.

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- The drug container is appropriately labeled and that the labeling accurately reflects the effects of the drug on the patient and includes possible adverse effects and cautions or warnings.

32. Furthermore, such foreign-labeled drugs are a concern because they could impede emergency response personnel's ability to treat patients properly and promptly, including determining the drugs' composition and possible fatal interactions with other drugs. In California, prescription containers must be labeled with specific instructions for the patient, due to public policy concerns, regarding patient safety.

33. Respondents failed to completely and accurately account for the above-referenced dangerous drugs and controlled substances. Respondents failed to supply or maintain the required records of acquisition of the drugs. Further, Respondents did not obtain, maintain, or supply the required prescription records, nor did they supply other records of dispositions of the drugs.

#### **DISPENSING WITHOUT A PRESCRIPTION**

34. Section 4059(a) of the Code provides, in relevant part :

"No person shall furnish any "dangerous drug," except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian. "

35. Health and Safety Code Section 11352 provides that every person who transports, imports into this state, sells, furnishes, administers, or gives away, or attempts to import into this state or transport any controlled substance including those classified as Schedule III, IV, or V, which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison.

36. Health and Safety Code Section 11158(a), provides that no controlled substance classified in Schedule II shall be dispensed without a prescription meeting the requirements of this chapter. Except as provided in Section 11159 or when dispensed directly to an ultimate user by a practitioner, other than a pharmacist or

1 pharmacy, no controlled substance classified in Schedule III, IV, or V may be dispensed  
2 without a prescription meeting the requirements of this chapter.

3 37. Section 4113(b) of the Code provides, in pertinent part:

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

7 38. Section 4115(a) of the Code provides, in pertinent part:

8 "Notwithstanding any other provision of law, a pharmacy technician may  
9 perform packaging, manipulative, repetitive, or other nondiscretionary tasks, only while  
10 assisting, and while under the direct supervision and control of, a pharmacist."

11 39. Respondent Kritchevskaya and Gerov are further subjected to  
12 discipline pursuant to Business and Professions Code sections 4300 and 4301 for  
13 unprofessional conduct within the meaning of Code sections 4301(j), 4301(n), and 4301  
14 (o), as they relate to:

15 A. Business and Professions Code sections 4059 and Health and Safety  
16 Code Sections 11352 and 11158(a), in that on or about January 5, 2001, during an  
17 undercover operation, a sales clerk sold two bottles of a liquid labeled as Corvalolum  
18 and one container labeled as Rabuletta Validoli to an undercover agent. These  
19 containers were labeled in Russian only. A prescription was not requested nor required  
20 by the store clerk. Respondents allowed for an unlicensed employee of the pharmacy,  
21 while under supervision, to furnish controlled substances and "dangerous drugs" without  
22 a prescription. Furthermore, Respondents knew it was illegal and admitted to selling  
23 the foreign drugs to Russian immigrants.

24 B. Business and Professions Codes sections 4301(j), (n) and (o), in that  
25 by their own admission, Respondents admitted that they purchased these foreign drugs,  
26 from travelers returning from Eastern Europe and Russia. They also admitted  
27 purchasing from Advanced Technology Enterprise Inc., New York, New York. In

1 addition, they encouraged private citizens to illegally import non-FDA approved  
2 "dangerous drugs" and controlled substances into this country by paying them for the  
3 drugs.

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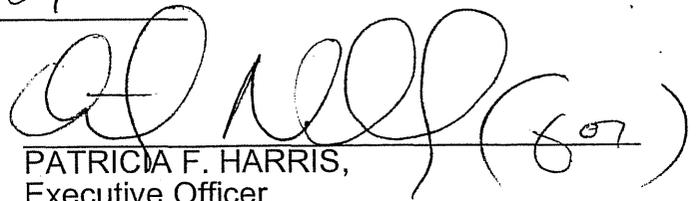
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PRAYER

WHEREFORE, Complainant prays that a hearing be held and that following said hearing, the Board of Pharmacy make its Order:

1. Revoking or suspending Permit No. PHY 42185 issued to Respondent Santa Monica.
2. Revoking or suspending License No. RPH 47097 issued to Respondent Kritchevskaya.
3. Revoking or suspending Registration No. TCH 8479 issued to Respondent Gerov.
4. Prohibiting Respondent Kritchevskaya from serving as an officer, director, associate or partner of any licensee, permittee or registrant for a period of five years or until the license or permit is reissued or reinstated.
5. Issue an Order compelling the Respondents to reimburse the Board for the reasonable costs of its investigation, enforcement, and prosecution of this matter, up to the day of hearing.
6. Taking such other and further action as the Board deems necessary and proper.

DATED: 1/23/01



PATRICIA F. HARRIS,  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California

Complainant