28 22921 Serra Drive

3. On or about October 23, 2008, Henrietta Gaviola, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Accusation No. 3158, Statement to Respondent, Notice of Defense, Request for Discovery, Recommended Guidelines for Disciplinary Orders and Conditions of Probation, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is:

21707 Oakfort Avenue

Carson, CA 90745.

A copy of the Accusation is attached as Exhibit A, and is incorporated herein by reference.

- 4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).
 - 5. On or about November 6, 2008, Respondent filed a Notice of Defense.
 - 6. Business and Professions Code section 118 states, in pertinent part:
- (b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the license on any such ground.
- 7. The hearing on the merits was set for August 19, 2009, at 9:00 a.m. before an Administrative Law Judge at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013. Respondent was duly served with a Notice of Hearing at his address of record. A copy of the Notice of Hearing is attached as Exhibit B, and is incorporated herein by reference.
- 8. The relevant Notice of Hearing was served on Respondent at the address which was indicated to the Office of the Attorney General by the U.S. Post Office which was and is:

Carson, CA 90745

A copy of the returned envelopes from the U.S. Post Office indicating Respondent's new address although he never formally changed with the Board are attached as Exhibit C, and is incorporated herein by reference.

- 9. On the date of the hearing, August 19, 2009, at the Office of Administrative Hearings, before Administrative Law Judge H. Stuart Waxman, Respondent failed to appear. Judge Waxman found service of all documents on Respondent to be proper.
 - 10. California Government Code section 11520 states, in pertinent part:
- (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.
- 11. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the evidence on file herein, finds that the allegations in Accusation No. 3158 are true.
- 12. The total cost for investigation and enforcement in connection with the Accusation are six thousand eight hundred fifty-nine dollars and seventy-five cents (\$6,859.75) as of August 17, 2009.

DETERMINATION OF ISSUES

- 1. Based on the foregoing findings of fact, Respondent Oladimeji Falemi aka Dimeji Falemi has subjected his Pharmacist License No. RPH 36945 to discipline.
 - 2. A copy of the Accusation is attached and a Notice of Hearing is attached.
 - 3. The agency has jurisdiction to adjudicate this case by default.
- 4. The California State Board of Pharmacy is authorized to revoke Respondent's Pharmacist License based upon the following violations alleged in the Accusation:
 - a. Business and Professions Code section 4301, subdivision (g), -knowingly signing a false certificate;
 - b. Business and Professions Code section 4231, subdivision (a), California Code of Regulations, title 16, section 1732.5 –failing to commit continuing education;

1	c. Business and Professions Code sections 490, 4301, subdivision (k), California		
2	Code of Regulations, title 16, section 1770 –conviction of substantially related		
3	crimes;		
4	d. Business and Professions Code section 4301, subdivision (h), – alcohol abuse.		
5	e. Business and professions Code section 4301, subdivision (p), -committed acts		
6	which would have warranted denial of a license.		
7			
8	<u>ORDER</u>		
9	IT IS SO ORDERED that Pharmacist License No. RPH 36945, heretofore issued to		
10	Respondent Oladimeji Falemi aka Dimeji Falemi is revoked.		
11	Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a		
12	written motion requesting that the Decision be vacated and stating the grounds relied on within		
13	seven (7) days after service of the Decision on Respondent. The agency in its discretion may		
14	vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.		
15	This Decision shall become effective on December 7, 2009.		
16	It is so ORDERED January 6, 2010.		
17	Benneth H. Scheel		
18	KENNETH H. SCHELL, BOARD PRESIDENT		
19	FOR THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
20	DOJ docket number: LA2009505159		
21	Attachment:		
22	Exhibit A: Accusation No. 3158		
23	Exhibit B: Notice of Hearing Exhibit C: Returned Envelopes		
24			
25	-		
26			
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Exhibit A

,			
1	EDMUND G. BROWN JR., Attorney General		
2	of the State of California KAREN B. CHAPPELLE		
3	Supervising Deputy Attorney General GLORIA A. BARRIOS, State Bar No. 94811		
4	Supervising Deputy Attorney General California Department of Justice		
5.	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013		
6	Telephone: (213) 897-2540 Facsimile: (213) 897-2804		
7	Attorneys for Complainant		
. 8	BEFORE THE CALIFORNIA STATE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
9			
10			
11	In the Matter of the Accusation Against: Case No. 3158		
12	OLADIMEJI FALEMI A C C U S A T I O N aka DIMEJI FALEMI		
13	21707 Oakfort Avenue Carson, CA 90745		
14	Pharmacist License No. RPH 36945		
15	Respondent.		
16	Complainant alleges:		
17			
18	<u>PARTIES</u>		
19	1. Virginia K. Herold (Complainant) brings this Accusation solely in her		
20			
21	Department of Consumer Affairs.		
22	2. On or about July 19, 1982, the Board issued Pharmacist License No. RPH 36945 to Oladimeji Falemi aka Dimeji Falemi (Respondent). The Pharmacist License was in ful force and effect at all times relevant to the charges brought herein and will expire on October 31		
23			
24			
25	2009, unless renewed.		
26	JURISDICTION		
27	This Accusation is brought before the Board, under the authority of the		
20	following laws. All section references are to the Business and Professions Code unless		

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STATUTORY PROVISIONS

4. Section 4300 of the Business and Professions Code (Code) provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.

5. Section 490 states:

"A Board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under provisions of Section 1203.4 of the Penal Code."

6. Section 492 states:

"Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with Section 23249.50) of Division 11 of Vehicle Code, shall not prohibit any agency established under Division 2 (commencing with Section 500) of this code, or any other initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest."

7. Section 493 states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon

the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question."

8. Section 4231 of the Code states:

"The board shall not issue any renewal certificate unless the applicant submits proof satisfactory to the board that he or she has successfully completed approved courses of continuing pharmaceutical education during the two years preceding the application for renewal. The continuing education required by this article shall consist of the number of clock hours, not to exceed 30 clock hours, designated by regulation adopted by the board. This section shall not apply to licensees during the first two years immediately following their graduation from a college of pharmacy or department of pharmacy of a university recognized by the board."

9. Section 4301 of the Code states:

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

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

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcohol beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

. . . .

(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

.

- (p) Actions or conduct that would have warranted denial of a license."
- 10. California Code of Regulations, title 16, section 1732.5, states:
- (a) "Except as provided in Section 4234 of the Business and Professions Code and Section 1732.6 of the Division, each applicant for renewal of a pharmacist license submit proof satisfactory to the board, that the applicant has completed 30 hours continuing education in the prior 24 months."
 - 11. California Code of Regulations, title 16, section 1770, states:

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

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

FIRST CAUSE OF ACTION

(Knowingly Signing False Certificate)

13. Respondent is subject to disciplinary action under sections 4301, subdivision (g) of the Code, on the grounds of unprofessional conduct, in that Respondent knowingly signed a false certificate as follows:

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- a. On or about October 1, 2007, Respondent signed his October, 2007, renewal application declaring under penalty of perjury that he completed 30 hours of continuing education during the last renewal period, November 1, 2005-October 31, 2007.
- b. As evidence of Respondent's completion of his continuing education requirement, he submitted completion certificates form seminars he attended in Nigeria from the Pharmacists Council of Nigeria. The Pharmacists Council of Nigeria is not accredited by the Accreditation Council for Pharmacy (ACPE). The Board does not accept continuing education hours not accredited by ACPE.

SECOND CAUSE OF ACTION

(Failed to Complete Continuing Education)

14. Respondent is subject to disciplinary action under sections 4231, subdivision (a) of the Code, as defined in California Code of Regulations, title 16, section 1732.5 in that Respondent has not completed his 30 hours of continuing education. Complainant now refers to and incorporates all the allegations of paragraph 13, subparagraph a, as though set forth fully.

THIRD CAUSE OF ACTION

(Conviction of Substantially Related Crimes)

- 15. Respondent is subject to disciplinary action under sections 490, 4301, subdivision (k) of the Code, on the grounds of unprofessional conduct, as defined in California Code of Regulations, title 16, section 1770 in that Respondent has been convicted of crimes that are substantially related to the qualifications, functions or duties of a licensed pharmacist as follows:
- a. On or about October 18, 1991, Respondent was convicted by the Court on a plea of guilty for violating one count of Vehicle Code section 23151, subdivision (a), a misdemeanor (driving under the influence), in the Superior Court of California, County of Sacramento, Case No. 91T06993 entitled *The People of the State of California v. Oladimeji Falemi*. On or about March 24, 1992, Respondent failed to complete a First Offender Program and was found in violation of his probation. He was re-referred to the First Offender Program.

- b. On or about March 28, 2001, Respondent was convicted by the Court on a plea of no contest for violating one count of Vehicle Code section 23152, subdivisions (a), misdemeanor (driving under the influence), in the Superior Court of California, County of Sacramento, Case No. 01T01275 entitled *The People of the State of California v. Oladimeji Falemi*. Respondent was sentenced to the First Offender Program and given three years probation, a fine, and two days in jail. On or about August 28, 2001, Respondent failed to complete a First Offender Program and was sentenced to fifteen days in jail. He was re-referred to the First Offender Program.
- c. On or about October 22, 2002, Respondent was convicted by the Court on a plea of no contest for violating one count of Vehicle Code section 23103.5, a misdemeanor (reckless driving), in the Superior Court of California, County of Sacramento, Case No. 02T03404 entitled *The People of the State of California v. Oladimeji Falemi*. Respondent was sentenced to ten days in jail and given three years probation.
- d. On or about July 10, 2006, Respondent was convicted by the Court on a plea of no contest for violating one count of Vehicle Code section 23103, (reckless driving), in the Superior Court of California, County of Los Angeles, Antelope Valley Courthouse, Case No. 5AT02838 entitled *The People of the State of California v. Dimeji Falemi*. Respondent was placed on three years probation. As of May 29, 2008, Respondent is wanted on a bench warrant for failure to appear in regards to a violation of probation.
- e. The circumstances surrounding the conviction are that on or about April 4, 2005, Respondent driving his vehicle ran into the back of a big rig truck. Officers from the California Highway Patrol approached Respondent's car and smelled a strong odor of alcohol emitting from Respondent. Respondent was unable to perform the Field Sobriety Test. He refused a blood alcohol test.

FOURTH CAUSE OF ACTION

(Alcohol Abuse)

16. Respondent is subject to disciplinary action under sections 4301, subdivision (h) of the Code, on the grounds of unprofessional conduct. Complainant now refers

1	to and incorporates all the allegations of paragraph 15, subparagraphs a through e, as though set		
2	forth fully.		
3	FIFTH CAUSE OF ACTION		
4	(Committed Acts Which Would Have Warranted Denial of License)		
5	16. Respondent is subject to disciplinary action under sections 4301,		
6	subdivision (p) of the Code, on the grounds of unprofessional conduct. Complainant now refers		
7	to and incorporates all the allegations of paragraph 15, subparagraphs a through e, as though set		
8	forth fully.		
9	PRAYER		
0	WHEREFORE, Complainant requests that a hearing be held on the matters herein		
1	alleged, and that following the hearing, the Board issue a decision:		
2	1. Revoking or suspending the Pharmacist license No. RPH 36945, issued to		
3	Oladimeji Falemi;		
4	2. Ordering Oladimeji Falemi to pay the California State Board of Pharmacy		
5	the reasonable costs of the investigation and enforcement of this case; pursuant to Business and		
6	Professions Code section 125.3;		
7	3. Taking such other and further action as deemed necessary and proper.		
8	10/16/08		
9	DATED: 10/10/00		
20			
!1	Craina Duolo		
2.	VIRGINIA K. HEROLD Executive Officer		
23 .	California State Board of Pharmacy State of California		
24	Complainant		
25			
26			

Exhibit B

1 2 3 4 5 6 7 8	EDMUND G. BROWN JR., Attorney General of the State of California KAREN B. CHAPPELLE Supervising Deputy Attorney General GLORIA A. BARRIOS, State Bar No. 94811 Supervising Deputy Attorney General 300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 Telephone: (213) 897-2540 Facsimile: (213) 897-2804 Attorneys for Complainant BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS			
9	STATE OF CAL In the Matter of the Accusation Against:	IFORNIA Case No. 3158		
11	OLADIMEJI FALEMI	OAH No. 2008110469		
12	Respondent.	CONTINUED NOTICE OF		
13		HEARING [Gov. Code § 11509]		
14		Hearing: Wednesday, August 19, 2009		
15				
16	YOU ARE HEREBY NOTIFIED that the hearing in this matter has been			
17	continued and will now commence on Wednesday,	August 19, 2009 at 9:00 a.m. before an		
18	Administrative Law Judge at			
19 20	Office of Administrative Hearings 320 West Fourth Street, Suite 630 Los Angeles, CA 90013.			
21	The hearing will be conducted before the Board of Pharmacy, Department of			
22	Consumer Affairs by an Administrative Law Judge of the Office of Administrative Hearings,			
23	upon the charges made in Accusation No. 3158 served upon you.			
24	If you object to the place of hearing, you must notify the presiding officer within			
25	ten (10) days after this notice is served on you. Failure to notify the presiding officer within ten			
26	(10) days will deprive you of a change in the place of hearing.			
27	You may be present at the hearing. You have the right to be represented by an			
28	attorney at your own expense. You are not entitled to the appointment of an attorney to represent			
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you at public expense. You are entitled to represent yourself without legal counsel. You may present any relevant evidence, and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents, or other things by applying to the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013, telephone: (213) 576-7200.

INTERPRETER: Pursuant to section 11435.20 of the Government Code, the hearing shall be conducted in the English language. If a party or a party's witness does not proficiently speak or understand the English language and before commencement of the hearing requests language assistance, an agency subject to the language assistance requirement in section 11435.15 of the Government Code shall provide a certified interpreter or an interpreter approved by the administrative law judge conducting the proceedings. The cost of providing the interpreter shall be paid by the agency having jurisdiction over the matter if the administrative law judge or hearing officer so directs, otherwise by the party for whom the interpreter is provided. If you or a witness require the assistance of an interpreter, ample advance notice of this fact should be given to the Office of Administrative Hearings so that appropriate arrangements can be made.

CONTINUANCES: Under section 11524 of the Government Code, the agency may grant a continuance, but when an administrative law judge of the Office of Administrative Hearings has been assigned to the hearing, no continuance may be granted except by him or her or by the presiding Administrative Law Judge for good cause. When seeking a continuance, a party shall apply for the continuance within ten (10) working days following the time the party discovered or reasonably should have discovered the event or occurrence which establishes good cause for the continuance. A continuance may be granted for good cause after the ten (10) working days have lapsed only if the party seeking the continuance is not responsible for and has made a good faith effort to prevent the condition or event establishing the good cause.

	·		
1	Continuances are not favored. If you need a continuance, immediately write or		
2	call the Office of Admini	strative Hearings: 320 West Fourth Street, Suite 630, Los Angeles, CA	
3	90013 telephone: (213) 5	76-7200.	
4	DATED:	April 20, 2009.	
5	· .	EDMUND G. BROWN JR., Attorney General of the State of California	
6 7	·	KAREN B. CHAPPELLE Supervising Deputy Attorney General	
8			
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10		GLORIA A. BARRIOS Supervising Deputy Attorney General	
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12		Attorneys for Complainant	
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DECLARATION OF SERVICE

(Certified & First Class Mail (separate mailing))

Case Name: Oladimeji Falemi

OAH No. 2008110469

Board of Pharmacy Case No. 3158

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 300 So. Spring St., Los Angeles, CA 90013

I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On April 21, 2009, I served the attached **CONTINUED NOTICE OF HEARING** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **CONTINUED NOTICE OF HEARING** was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General, addressed as follows:

OLADIMEJI FALEMI 22921 Serra Drive Carson, CA 90745

Certified Mail No. 7001 0360 0003 6742 0685

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on April 21, 2009, at L_los Angeles, California.

Henrietta Gaviola

Typed Name

Sionature

60403810.wpd

SENDER: COMPLETE THIS SECTION Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits.	A Received by (Please Print Glearly) C. Signature X Agent Addressee D. Is delivery address different from item 1? Yes If YES, enter delivery address below:
OLADIMEJI FALEMI 22921 Serra Drive Carson, CA 90745	3. Service Type ☑/Certified Mail ☐ Express Mail ☐ Registered ☑/Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D.
2. Article Number (Copy from service lat 7001 036	4. Restricted Delivery? (Extra Fee) ☐ Yes ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐
PS Form 3811, July 1999 Domestic Ret	urn Receipt 102595-00-M-0952

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Postage \$ Return Receipt Fee (Endorsement Required) Restricted Delivery Fee (Endorsement Required) Total Postage & Fees Sent To OLADIMEJI FALEMI Street, Apt. 22921 Serra Drive or PO Box Carson, CA 90745 City, State, zir+4 ENForm 3800, annany 2001. See Reverse for Institutions.

Exhibit C

GLORIA BARRIOS, SDAG

STATE OF CALIFORNIA DEPARTMENT OF JUSTICE OFFICE OF THE ATTORNEY GENERAL 300 SOUTH SPRING STREET LOS ANGELES, CA 90013



7001 0360 0003 2703 9599

Oladimeji Falemi 21707 Oakfort Ave. arson, CA 90745

MAILED FROM ZIP CODE 90013

NOTIFY SENDER OF NEW ADDRESS
PALENT SERRA DR
CARSON CA 90745-4956

*0782-02800-17-44

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