

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

In the Matter of the Accusation Against:

**PETROS BAGDASARIAN DBA ARARAT
PLAZA PHARMACY
1248 S. Glendale Ave., Ste M
Glendale, CA 91205
Original Permit No. PHY 42130**

**MICHAEL MYUNG Y. LEE
1807 Rainbow Terrace Lane
Montebello, CA 90640
Pharmacist-in-Charge
Pharmacist License No. RPH 44619**

Respondents.

Case No. 3823

OAH Case No. L-2011040145

DECISION AND ORDER

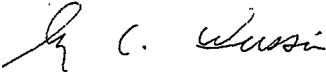
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on March 9, 2012.

It is so ORDERED on February 8, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
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7

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

10 In the Matter of the Accusation Against:

Case No. 3823

11 **PETROS BAGDASARIAN DBA ARARAT**
12 **PLAZA PHARMACY**
13 **1248 S. Glendale Ave., Ste. M**
Glendale, CA 91205
14 **Original Permit No. PHY 42130**

OAH Case No. L-2011040145

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 **MICHAEL MYUNG Y. LEE**
16 **10206 Hillhaven Avenue, Suite 2**
Tujunga, CA 91042
17 **Pharmacist-in-Charge**
Pharmacist License No. RPH 44619

18 Respondents.
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21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
22 entitled proceedings that the following matters are true:

23 PARTIES

24 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
25 She brought this action solely in her official capacity and is represented in this matter by Kamala
26 D. Harris, Attorney General of the State of California, by Helene E. Swanson, Deputy Attorney
27 General.
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1 2. Respondent Petros Bagdasarian dba Ararat Plaza Pharmacy and Michael Myung Lee
2 (Respondents) are represented in this proceeding by attorney Herbert L. Weinberg, whose address
3 is:

4 Herbert L. Weinberg
5 MCGUIRE WOODS LLP
6 1800 Century Park East, 8th Floor
7 Los Angeles, CA 90067

8 3. On or about February 6, 1997, the Board of Pharmacy issued Original Permit No.
9 PHY 42130 to Petros Bagdasarian dba Ararat Plaza Pharmacy (Respondent Ararat). The Original
10 Permit was in full force and effect at all times relevant to the charges brought in Accusation No.
11 3823 and will expire on February 1, 2012, unless renewed.

12 4. On or about August 17, 1991, the Board of Pharmacy issued Pharmacist License No.
13 RPH 44619 to Michael Myung Y. Lee (Respondent Lee), 10206 Hillhaven Avenue, Suite 3,
14 Tujunga, CA 91042. The Pharmacist License was in full force and effect at all times relevant to
15 the charges brought herein and will expire on August 31, 2011, unless renewed. Respondent Lee
16 has been Pharmacist-in-Charge of Respondent Pharmacy since April 22, 2000.

17 JURISDICTION

18 5. Accusation No. 3823 was filed before the Board of Pharmacy (Board), Department of
19 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
20 statutorily required documents were properly served on Respondent on December 28, 2010.
21 Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation
22 No. 3823 is attached as **Exhibit A** and incorporated herein by reference.

23 ADVISEMENT AND WAIVERS

24 6. Respondents have carefully read, fully discussed with counsel, and understands the
25 charges and allegations in Accusation No. 3823. Respondents have also carefully read, fully
26 discussed with counsel, and understand the effects of this Stipulated Settlement and Disciplinary
27 Order.
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1 7. Respondents are fully aware of their legal rights in this matter, including the right to a
2 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
3 his own expense; the right to confront and cross-examine the witnesses against him; the right to
4 present evidence and to testify on their own behalf; the right to the issuance of subpoenas to
5 compel the attendance of witnesses and the production of documents; the right to reconsideration
6 and court review of an adverse decision; and all other rights accorded by the California
7 Administrative Procedure Act and other applicable laws.

8 8. Respondents voluntarily, knowingly, and intelligently waive and give up each and
9 every right set forth above.

10 CULPABILITY

11 9. Respondents admit that at hearing, Complainant could establish a factual basis for the
12 charges and allegations in Accusation No. 3823, and that those charges and allegations are cause
13 for discipline. Respondents hereby give up their right to contest those charges and allegations.

14 10. Respondent Ararat agrees that his Original Permit is subject to discipline and he
15 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.
16 Respondent Lee agrees that his Pharmacist License is subject to discipline and he agrees to be
17 bound by the Board's probationary terms as set forth in the Disciplinary Order below.

18 CONTINGENCY

19 11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondents
20 understand and agree that counsel for Complainant and the staff of the Board of Pharmacy may
21 communicate directly with the Board regarding this stipulation and settlement, without notice to
22 or participation by Respondents or their counsel. By signing the stipulation, Respondents
23 understand and agree that they may not withdraw their agreement or seek to rescind the
24 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
25 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
26 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
27 the parties, and the Board shall not be disqualified from further action by having considered this
28 matter.

1 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
2 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
3 effect as the originals.

4 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
5 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
6 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
7 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
8 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
9 writing executed by an authorized representative of each of the parties.

10 14. In consideration of the foregoing admissions and stipulations, the parties agree that
11 the Board may, without further notice or formal proceeding, issue and enter the following
12 Disciplinary Order:

13 **DISCIPLINARY ORDER REGARDING RESPONDENT ARARAT**

14 IT IS HEREBY ORDERED that Original Permit No. PHY 42130 issued to Respondent
15 Petros Bagdasarian dba Ararat Plaza Pharmacy (Respondent) is revoked. However, the
16 revocation is stayed and Respondent is placed on probation for three (3) years on the following
17 terms and conditions.

18 1. **Obey All Laws**

19 Respondent owner shall obey all state and federal laws and regulations.

20 Respondent owner shall report any of the following occurrences to the board, in writing,
21 within seventy-two (72) hours of such occurrence:

- 22 an arrest or issuance of a criminal complaint for violation of any provision of the
23 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
24 substances laws
- 25 a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
26 criminal complaint, information or indictment
- 27 a conviction of any crime
- 28 discipline, citation, or other administrative action filed by any state or federal agency

1 which involves respondent's original permit or which is related to the practice of
2 pharmacy or the manufacturing, obtaining, handling or distributing, billing, or
3 charging for any drug, device or controlled substance.

4 Failure to timely report any such occurrence shall be considered a violation of probation.

5 **2. Report to the Board**

6 Respondent owner shall report to the board quarterly, on a schedule as directed by the board
7 or its designee. The report shall be made either in person or in writing, as directed. Among other
8 requirements, respondent owner shall state in each report under penalty of perjury whether there
9 has been compliance with all the terms and conditions of probation. Failure to submit timely
10 reports in a form as directed shall be considered a violation of probation. Any period(s) of
11 delinquency in submission of reports as directed may be added to the total period of probation.
12 Moreover, if the final probation report is not made as directed, probation shall be automatically
13 extended until such time as the final report is made and accepted by the board.

14 **3. Interview with the Board**

15 Upon receipt of reasonable prior notice, respondent owner shall appear in person for
16 interviews with the board or its designee, at such intervals and locations as are determined by the
17 board or its designee. Failure to appear for any scheduled interview without prior notification to
18 board staff, or failure to appear for two (2) or more scheduled interviews with the board or its
19 designee during the period of probation, shall be considered a violation of probation.

20 **4. Cooperate with Board Staff**

21 Respondent owner shall cooperate with the board's inspection program and with the board's
22 monitoring and investigation of respondent's compliance with the terms and conditions of his
23 probation. Failure to cooperate shall be considered a violation of probation.

24 **5. Reimbursement of Board Costs**

25 As a condition precedent to successful completion of probation, respondent owner shall pay
26 to the board its costs of investigation and prosecution in the amount of \$6,441.00 (total amount of
27 costs are \$12,441.00; Respondent Lee to pay the remaining costs, see below). A payment plan
28 approved by the Board is acceptable.

1 There shall be no deviation from this schedule absent prior written approval by the board or
2 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
3 probation.

4 The filing of bankruptcy by respondent owner shall not relieve respondent of his
5 responsibility to reimburse the board its costs of investigation and prosecution.

6 **6. Probation Monitoring Costs**

7 Respondent owner shall pay any costs associated with probation monitoring as determined
8 by the board each and every year of probation. Such costs shall be payable to the board on a
9 schedule as directed by the board or its designee. Failure to pay such costs by the deadline(s) as
10 directed shall be considered a violation of probation.

11 **7. Status of License**

12 Respondent owner shall, at all times while on probation, maintain current licensure with the
13 board. If respondent owner submits an application to the board, and the application is approved,
14 for a change of location, change of permit or change of ownership, the board shall retain
15 continuing jurisdiction over the license, and the respondent shall remain on probation as
16 determined by the board. Failure to maintain current licensure shall be considered a violation of
17 probation.

18 If respondent owner's license expires or is cancelled by operation of law or otherwise at any
19 time during the period of probation, including any extensions thereof or otherwise, upon renewal
20 or reapplication respondent owner's license shall be subject to all terms and conditions of this
21 probation not previously satisfied.

22 **8. License Surrender While on Probation/Suspension**

23 Following the effective date of this decision, should respondent owner discontinue
24 business, respondent owner may tender the premises license to the board for surrender. The
25 board or its designee shall have the discretion whether to grant the request for surrender or take
26 any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of
27 the license, respondent will no longer be subject to the terms and conditions of probation.

28 Upon acceptance of the surrender, respondent owner shall relinquish the premises wall and

1 renewal license to the board within ten (10) days of notification by the board that the surrender is
2 accepted. Respondent owner shall further submit a completed Discontinuance of Business form
3 according to board guidelines and shall notify the board of the records inventory transfer.

4 Respondent owner shall also, by the effective date of this decision, arrange for the
5 continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written
6 notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that
7 identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating
8 as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five
9 days of its provision to the pharmacy's ongoing patients, Respondent owner shall provide a copy
10 of the written notice to the board. For the purposes of this provision, "ongoing patients" means
11 those patients for whom the pharmacy has on file a prescription with one or more refills
12 outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty (60)
13 days.

14 Respondent owner may not apply for any new licensure from the board for three (3) years
15 from the effective date of the surrender. Respondent owner shall meet all requirements applicable
16 to the license sought as of the date the application for that license is submitted to the board.

17 Respondent owner further stipulates that he or she shall reimburse the board for its costs of
18 investigation and prosecution prior to the acceptance of the surrender.

19 **9. Notice to Employees**

20 Respondent owner shall, upon or before the effective date of this decision, ensure that all
21 employees involved in permit operations are made aware of all the terms and conditions of
22 probation, either by posting a notice of the terms and conditions, circulating such notice, or both.
23 If the notice required by this provision is posted, it shall be posted in a prominent place and shall
24 remain posted throughout the probation period. Respondent owner shall ensure that any
25 employees hired or used after the effective date of this decision are made aware of the terms and
26 conditions of probation by posting a notice, circulating a notice, or both. Additionally,
27 respondent owner shall submit written notification to the board, within fifteen (15) days of the
28 effective date of this decision, that this term has been satisfied. Failure to submit such

1 notification to the board shall be considered a violation of probation.

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

5 **10. Owners and Officers: Knowledge of the Law**

6 Respondent shall provide, within thirty (30) days after the effective date of this decision,
7 signed and dated statements from its owners, including any owner or holder of ten percent (10%)
8 or more of the interest in respondent or respondent's stock, and any officer, stating under penalty
9 of perjury that said individuals have read and are familiar with state and federal laws and
10 regulations governing the practice of pharmacy. The failure to timely provide said statements
11 under penalty of perjury shall be considered a violation of probation.

12 **11. Posted Notice of Probation**

13 Respondent owner shall prominently post a probation notice provided by the board in a
14 place conspicuous and readable to the public. The probation notice shall remain posted during
15 the entire period of probation.

16 Respondent owner shall not, directly or indirectly, engage in any conduct or make any
17 statement which is intended to mislead or is likely to have the effect of misleading any patient,
18 customer, member of the public, or other person(s) as to the nature of and reason for the probation
19 of the licensed entity.

20 Failure to post such notice shall be considered a violation of probation.

21 **12. Violation of Probation**

22 If a respondent owner has not complied with any term or condition of probation, the board
23 shall have continuing jurisdiction over respondent license, and probation shall be automatically
24 extended until all terms and conditions have been satisfied or the board has taken other action as
25 deemed appropriate to treat the failure to comply as a violation of probation, to terminate
26 probation, and to impose the penalty that was stayed.

27 If respondent owner violates probation in any respect, the board, after giving respondent
28 owner notice and an opportunity to be heard, may revoke probation and carry out the disciplinary

1 order that was stayed. Notice and opportunity to be heard are not required for those provisions
2 stating that a violation thereof may lead to automatic termination of the stay and/or revocation of
3 the license. If a petition to revoke probation or an accusation is filed against respondent during
4 probation, the board shall have continuing jurisdiction and the period of probation shall be
5 automatically extended until the petition to revoke probation or accusation is heard and decided.

6 **13. Completion of Probation**

7 Upon written notice by the board or its designee indicating successful completion of
8 probation, respondent license will be fully restored.

9 **OPTIONAL TERMS**

10 **14. Community Services Program**

11 Within sixty (60) days of the effective date of this decision, respondent owner shall submit
12 to the board or its designee, for prior approval, a community service program in which respondent
13 shall provide free health-care related services to a community or charitable facility or agency for
14 at least 50 hours completed within the first two years of probation.

15 Within thirty (30) days of board approval thereof, respondent owner shall submit
16 documentation to the board demonstrating commencement of the community service program.
17 Respondent owner shall report on progress with the community service program in the quarterly
18 reports.

19 Failure to timely submit, commence, or comply with the program shall be considered a
20 violation of probation.

21 **TERMS AND CONDITIONS FOR RESPONDENT MICHAEL MYUNG Y. LEE**

22 IT IS HEREBY ORDERED that Pharmacist License No. RPH 44619 issued to Respondent
23 Michael Myung Y. Lee (Respondent) is revoked. However, the revocation is stayed and
24 Respondent is placed on probation for three (3) years on the following terms and conditions.

25 **15. Obey All Laws**

26 Respondent shall obey all state and federal laws and regulations.

27 Respondent shall report any of the following occurrences to the board, in writing, within
28 seventy-two (72) hours of such occurrence:

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- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state or federal agency which involves respondent's pharmacist license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

Failure to timely report such occurrence shall be considered a violation of probation.

16. Report to the Board

Respondent shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the board.

17. Interview with the Board

Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews with the board or its designee, at such intervals and locations as are determined by the board or its designee. Failure to appear for any scheduled interview without prior notification to board staff, or failure to appear for two (2) or more scheduled interviews with the board or its designee during the period of probation, shall be considered a violation of probation.

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1 **18. Cooperate with Board Staff**

2 Respondent shall cooperate with the board's inspection program and with the board's
3 monitoring and investigation of Respondent's compliance with the terms and conditions of his
4 probation. Failure to cooperate shall be considered a violation of probation.

5 **19. Continuing Education**

6 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
7 pharmacist as directed by the board or its designee.

8 **20. Notice to Employers**

9 During the period of probation, respondent shall notify all present and prospective
10 employers of the decision in Case Number 3823 and the terms, conditions and restrictions
11 imposed on respondent by the decision, as follows:

12 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
13 respondent undertaking any new employment, respondent shall cause his direct supervisor,
14 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
15 tenure of employment) and owner to report to the board in writing acknowledging that the listed
16 individual(s) has/have read the decision in Case Number 3823, and terms and conditions imposed
17 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)
18 submit timely acknowledgment(s) to the board.

19 If respondent works for or is employed by or through a pharmacy employment service,
20 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
21 licensed by the board of the terms and conditions of the decision in Case Number 3823 in
22 advance of the respondent commencing work at each licensed entity. A record of this notification
23 must be provided to the board upon request.

24 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
25 (15) days of respondent undertaking any new employment by or through a pharmacy employment
26 service, respondent shall cause his direct supervisor with the pharmacy employment service to
27 report to the board in writing acknowledging that he has read the decision in Case Number 3823
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1 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
2 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

3 Failure to timely notify present or prospective employer(s) or to cause that/those
4 employer(s) to submit timely acknowledgments to the board shall be considered a violation of
5 probation.

6 "Employment" within the meaning of this provision shall include any full-time,
7 part-time, temporary, relief or pharmacy management service as a pharmacist or any
8 position for which a pharmacist license is a requirement or criterion for employment,
9 whether the respondent is an employee, independent contractor or volunteer.

10 **21. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
11 **Designated Representative-in-Charge, or Serving as a Consultant**

12 During the period of probation, Respondent shall not supervise any intern pharmacist, be
13 the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the
14 board nor serve as a consultant unless otherwise specified in this order. Assumption of any such
15 unauthorized supervision responsibilities shall be considered a violation of probation.

16 **22. Consultant for Owner or Pharmacist-In-Charge**

17 During the period of probation, respondent shall not supervise any intern pharmacist, or
18 serve as a consultant to any entity licensed by the board. In the event that the respondent is
19 currently the pharmacist-in-charge of a pharmacy, the pharmacy shall retain an independent
20 consultant at its own expense who shall be responsible for reviewing pharmacy operations on a
21 quarterly basis for compliance by respondent with state and federal laws and regulations
22 governing the practice of pharmacy and for compliance by respondent with the obligations of a
23 pharmacist-in-charge. The consultant shall be a pharmacist licensed by and not on probation with
24 the board and whose name shall be submitted to the board or its designee, for prior approval,
25 within thirty (30) days of the effective date of this decision. Respondent shall not be a
26 pharmacist-in-charge at more than one pharmacy or at any pharmacy of which he is not the
27 current PIC. The board may, in case of an employment change by respondent or for other reasons
28 as deemed appropriate by the board or its designee, preclude the respondent from acting as a

1 pharmacist-in-charge. Failure to timely retain, seek approval of, or ensure timely reporting by the
2 consultant shall be considered a violation of probation.

3 **23. Reimbursement of Board Costs**

4 As a condition precedent to successful completion of probation, respondent shall pay to the
5 board its costs of investigation and prosecution in the amount of \$6,000.00. A payment plan
6 approved by the Board is acceptable.

7 There shall be no deviation from this schedule absent prior written approval by the board or
8 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
9 probation.

10 The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to
11 reimburse the board its costs of investigation and prosecution.

12 **24. Probation Monitoring Costs**

13 Respondent shall pay any costs associated with probation monitoring as determined by the
14 board each and every year of probation. Such costs shall be payable to the board on a schedule as
15 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
16 be considered a violation of probation.

17 **25. Status of License**

18 Respondent shall, at all times while on probation, maintain an active, current license with
19 the board, including any period during which suspension or probation is tolled. If respondent
20 owner submits an application to the board, and the application is approved, for a change of
21 location, change of permit or change of ownership, the board shall retain continuing jurisdiction
22 over the license, and the respondent shall remain on probation as determined by the board.
23 Failure to maintain an active, current license shall be considered a violation of probation.

24 If respondent's license expires or is cancelled by operation of law or otherwise at any time
25 during the period of probation, including any extensions thereof due to tolling or otherwise, upon
26 renewal or reapplication respondent's license shall be subject to all terms and conditions of this
27 probation not previously satisfied.

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1 **26. License Surrender While on Probation/Suspension**

2 Following the effective date of this decision, should Respondent cease practice due to
3 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
4 respondent may tender his license to the board for surrender. The board or its designee shall have
5 the discretion whether to grant the request for surrender or take any other action it deems
6 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent
7 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
8 record of discipline and shall become a part of the respondent's license history with the board.

9 Upon acceptance of the surrender, respondent shall relinquish his pocket and wall license to
10 the board within ten (10) days of notification by the board that the surrender is accepted.
11 Respondent may not reapply for any license from the board for three (3) years from the effective
12 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
13 of the date the application for that license is submitted to the board, including any outstanding
14 costs.

15 **27. Notification of a Change in Name, Residence Address, Mailing Address or**
16 **Employment**

17 Respondent shall notify the board in writing within ten (10) days of any change of
18 employment. Said notification shall include the reasons for leaving, the address of the new
19 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
20 shall further notify the board in writing within ten (10) days of a change in name, residence
21 address, mailing address, or phone number.

22 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
23 phone number(s) shall be considered a violation of probation.

24 **28. Tolling of Probation**

25 Except during periods of suspension, respondent shall, at all times while on probation, be
26 employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any
27 month during which this minimum is not met shall toll the period of probation, i.e., the period of
28 probation shall be extended by one month for each month during which this minimum is not met.

1 During any such period of tolling of probation, respondent must nonetheless comply with all
2 terms and conditions of probation.

3 Should respondent, regardless of residency, for any reason (including vacation) cease
4 practicing as a pharmacist for a minimum of 40 hours per calendar month in California,
5 respondent must notify the board in writing within ten (10) days of the cessation of practice, and
6 must further notify the board in writing within ten (10) days of the resumption of practice. Any
7 failure to provide such notification(s) shall be considered a violation of probation.

8 It is a violation of probation for respondent's probation to remain tolled pursuant to the
9 provisions of this condition for a total period, counting consecutive and non-consecutive months,
10 exceeding thirty-six (36) months.

11 "Cessation of practice" means any calendar month during which respondent is
12 not practicing as a pharmacist for at least 40 hours, as defined by Business and
13 Professions Code section 4000 et seq. "Resumption of practice" means any calendar
14 month during which respondent is practicing as a pharmacist for at least 40 hours as a
15 pharmacist as defined by Business and Professions Code section 4000 et seq.

16 **29. Violation of Probation**

17 If a respondent has not complied with any term or condition of probation, the board shall
18 have continuing jurisdiction over respondent, and probation shall automatically be extended, until
19 all terms and conditions have been satisfied or the board has taken other action as deemed
20 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
21 to impose the penalty that was stayed.

22 If respondent violates probation in any respect, the board, after giving respondent notice
23 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
24 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
25 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
26 a petition to revoke probation or an accusation is filed against respondent during probation, the
27 board shall have continuing jurisdiction and the period of probation shall be automatically
28 extended until the petition to revoke probation or accusation is heard and decided.

1 **30. Completion of Probation**

2 Upon written notice by the board or its designee indicating successful completion of
3 probation, Respondent's pharmacist license will be fully restored.

4 **OPTIONAL CONDITIONS OF PROBATION**

5 **31. Community Services Program**

6 Within ninety (90) days of the effective date of this decision, Respondent shall submit to
7 the board or its designee, for prior approval, a community services program in which Respondent
8 shall provide free health-care related services on a regular basis to a community or charitable
9 facility or agency for at least 100 hours per year, for the first two years of probation. Within
10 thirty (30) days of board approval thereof, respondent shall submit documentation to the board
11 demonstrating commencement of the community service program. A record of this notification
12 must be provided to the board upon request. Respondent shall report on progress with the
13 community service program in the quarterly reports. Failure to timely submit, commence, or
14 comply with the program shall be considered a violation of probation.

15 **32. Remedial Education**

16 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
17 board or its designee, for prior approval, an appropriate program of remedial education related to
18 the area of Controlled Substance Dispensing Security of Inventory. The program of remedial
19 education shall consist of at least 30 extra hours, which shall be completed within two years at
20 respondent's own expense. All remedial education shall be in addition to, and shall not be
21 credited toward, continuing education (CE) courses used for license renewal purposes.

22 Failure to timely submit or complete the approved remedial education shall be considered a
23 violation of probation. The period of probation will be automatically extended until such
24 remedial education is successfully completed and written proof, in a form acceptable to the board,
25 is provided to the board or its designee.

26 Following the completion of each course, the board or its designee may require the
27 respondent, at his own expense, to take an approved examination to test the respondent's
28 knowledge of the course. If the respondent does not achieve a passing score on the examination,

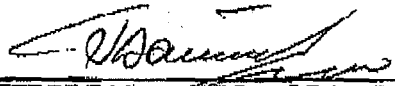
1 this failure shall be considered a violation of probation. Any such examination failure shall
2 require respondent to take another course approved by the board in the same subject area.

3 **33. No Ownership of Licensed Premises**

4 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
5 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
6 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or
7 has any legal or beneficial interest in, or serves as a manager, administrator, member, officer,
8 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
9 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold
10 that interest, but only to the extent of that position or interest as of the effective date of this
11 decision. Violation of this restriction shall be considered a violation of probation.

12 **ACCEPTANCE**

13 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
14 discussed it with my attorney, Herbert L. Weinberg. I understand the stipulation and the effect it
15 will have on my Original Permit. I enter into this Stipulated Settlement and Disciplinary Order
16 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
17 Board of Pharmacy.

18
19 DATED: 10/24/11 
20 **PETROS BAGDASARIAN DBA ARARAT PLAZA**
21 **PHARMACY**
22 Respondent

23 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
24 discussed it with my attorney, Herbert L. Weinberg. I understand the stipulation and the effect it
25 will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary
26 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
27 of the Board of Pharmacy.

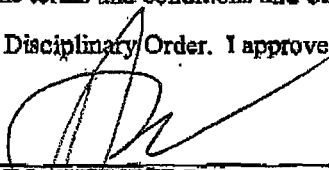
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DATED: 10/24/11


MICHAEL MYUNG Y. LEE
Respondent

I have read and fully discussed with Respondent Petros Bagdasarian dba Ararat Plaza Pharmacy and Respondent Michael Myung Lee the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 10/24/11


HERBERT L. WEINBERG
Attorney for Respondents

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: October 26, 2011

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General


HELENE E. SWANSON
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 3823

1 EDMUND G. BROWN JR.
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 HELENE E. SWANSON
Deputy Attorney General
4 State Bar No. 130426
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 620-3005
6 Facsimile: (213) 897-2804
Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 3823

11 **PETROS BAGDASARIAN, OWNER, DBA**
12 **ARARAT PLAZA PHARMACY**
13 **1248 S. Glendale Avenue, Suite M**
14 **Glendale, CA 91205**
Pharmacy Permit No. PHY 42130

A C C U S A T I O N

15 **MICHAEL MYUNG Y. LEE**
16 **10206 Hillhaven Avenue, Suite 2**
Tujunga, CA 91042
17 **Pharmacist-in-Charge**
Pharmacy License No. RPH 44619

18 Respondents.

19
20 Complainant alleges:

21 **PARTIES**

- 22 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
23 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 24 2. On or about February 6, 1997, the Board of Pharmacy issued Original Pharmacy
25 Permit Number PHY 42130 to Petros Bagdasarian, the owner of Ararat Plaza Pharmacy who was
26 doing business as Ararat Plaza Pharmacy (Respondents and/or Respondent Bagdasarian and
27 Respondent Pharmacy). The Original Permit was in full force and effect at all times relevant to
28 the charges brought herein and will expire on February 1, 2011, unless renewed.

1 that meets the requirements of state and federal law and is correctly labeled with all
2 of the following:

3 (1) Except where the prescriber . . . or the pharmacist who functions
4 pursuant to a policy, procedure or protocol pursuant to either subparagraph (D) of
5 paragraph (4), or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a)
6 of Section 4052 orders otherwise, either the manufacturer's trade name of the drug or
7 the generic name and the name of the manufacturer. Commonly used abbreviations
8 may be used. Preparations containing two or more active ingredients may be
9 identified by the manufacturer's trade name or the commonly used name or the
10 principal active ingredients.

11 (2) The directions for the use of the drug.

12 (3) The name of the patient or patients.

13 (4) The name of the prescriber or, if applicable. . . the pharmacist who
14 functions pursuant to a policy, procedure or protocol. . .

15 (5) The date of issue.

16 (6) The name and address of the pharmacy, and prescription number or
17 other means of identifying the prescription.

18 (7) The strength of the drug or drugs dispensed.

19 (8) The quantity of the drug or drugs dispensed.

20 (9) The expiration date of the effectiveness of the drug dispensed.

21 (10) The condition or purpose for which the drug was prescribed if the
22 condition or purpose is indicated on the prescription."

23 9. Section 4081 of the Code states:

24 "(a) All records of manufacture and of sale, acquisition, or disposition of
25 dangerous drugs or dangerous devices shall be at all times during business hours open
26 to inspection by authorized officers of the law, and shall be preserved for at least
27 three years from the date of making. A current inventory shall be kept by every
28 manufacturer, wholesaler, pharmacy. . . or establishment holding a currently valid and
unrevoked certificate, license, permit, registration, or exemption under Division 2
(commencing with Section 1200) of the Health and Safety Code or under Part 4
(commencing with Section 16000) of Division 9 of the Welfare and Institutions Code
who maintains a stock of dangerous drugs or dangerous devices.

(b) The owner, officer, and partner of any pharmacy. . . shall be jointly
responsible, with the pharmacist-in-charge or designated representative-in-charge, for
maintaining the records and inventory described in this section.

(c) The pharmacist-in-charge or designated representative-in-charge shall
not be criminally responsible for acts of the owner, officer, partner, or employee that
violate this section and of which the pharmacist-in-charge or designated
representative-in-charge had no knowledge, or in which he or she did not knowingly
participate."

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10. Section 4104 states, in relevant part:

“(a) Every pharmacy shall have in place procedures for taking action to protect the public when a licensed individual employed by or with the pharmacy . . . is discovered or known to have engaged in the theft, diversion, or self-use of dangerous drugs.

(b) Every pharmacy shall have written policies and procedures for addressing . . . theft, diversion, or self-use of dangerous drugs, among licensed individuals employed by or with the pharmacy.

(c) Every pharmacy shall report to the board, within 30 days of the receipt or development of the following information with regard to any licensed individual employed by or with the pharmacy:

* * *

(6) Any termination of a licensed individual based on theft, diversion, or self-use of dangerous drugs.

(d) Anyone making a report authorized or required by this section shall have immunity from any liability, civil or criminal, that might otherwise arise from the making of the report. Any participant shall have the same immunity with respect to participation in any administrative or judicial proceeding resulting from the report.”

11. Section 4105 states:

“(a) All records or other documentation of the acquisition and disposition of dangerous drugs and dangerous devices by any entity licensed by the board shall be retained on the licensed premises in a readily retrievable form.

(b) The licensee may remove the original records or documentation from the licensed premises on a temporary basis for license related purposes. However, a duplicate set of those records or other documentation shall be retained on the licensed premises.

(c) The records required by this section shall be retained on the licensed premises for a period of three years from the date of making.

(d) Any records that are maintained electronically shall be maintained so that the pharmacist-in-charge, the pharmacist on duty if the pharmacist-in-charge is not on duty . . . or . . . the designated representative on duty, shall, at all times during which the licensed premises are open for business, be able to produce a hard copy and electronic copy of all records of acquisition or disposition or other drug or dispensing-related records maintained electronically.

(e)(1) Notwithstanding subdivisions (a), (b), and (c), the board, may upon written request, grant to a licensee a waiver of the requirements that the records described in subdivisions (a), (b), and (c) be kept on the licensed premises.

(2) A waiver granted pursuant to this subdivision shall not affect the board's authority under this section or any other provision of this chapter.”

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12. Section 4113 of the Code states:

“(a) Every pharmacy shall designate a pharmacist-in-charge and within 30 days thereof, shall notify the Board in writing of the identity and license number of that pharmacist and the date he or she was designated.

(b) The proposed pharmacist-in-charge shall be subject to approval by the board. The board shall not issue or renew a pharmacy license without identification of an approved pharmacist-in-charge for the pharmacy.

(c) The pharmacist-in-charge shall be responsible for a pharmacy’s compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.”

13. Section 4115, subdivision (h), states that “[t]he pharmacist on duty shall be directly responsible for the conduct of a pharmacy technician supervised by that pharmacist.

14. Section 4160, subdivision (a) of the Code states that no person shall act as a wholesaler of any dangerous drug or dangerous device unless he or she has obtained a license from the Board.

15. Section 4161 states, in pertinent part:

(a) A person located outside this state that (1) ships, sells, mails, or delivers dangerous drugs or dangerous devices into this state or (2) sells, brokers, or distributes dangerous drugs or devices within this state shall be considered a nonresident wholesaler.

(b) A nonresident wholesaler shall be licensed by the board prior to shipping, selling, mailing, or delivering dangerous drugs or dangerous devices to a site located in this state or selling, brokering, or distributing dangerous drugs or devices within this state.

16. Section 4169 states, in pertinent part:

“(a) A person or entity may not do any of the following:

(1) Purchase, trade, sell, or transfer dangerous drugs or dangerous devices at wholesale with a person or entity that is not licensed with the board as a wholesaler or pharmacy.

(2) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably should have known were adulterated, as set forth in Article 2 (commencing with Section 111250) of Chapter 6 of Part 5 of Division 104 of the Health and Safety Code.

(3) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably should have known were misbranded, as defined in Section 111335 of the Health and Safety Code.

1 (4) Purchase, trade, sell, or transfer dangerous drugs or dangerous devices
after the beyond use date on the label.

2 (5) Fail to maintain records of the acquisition or disposition of dangerous
3 drugs or dangerous devices for at least three years.

4 (b) Notwithstanding any other provision of law, a violation of this section
of or subdivision (c) or (d) of Section 4163 may subject the person or entity that has
5 committed the violation to a fine not to exceed the amount specified in Section 125.9
for each occurrence, pursuant to a citation issued by the board."

6 17. Section 4300 of the Code permits the Board to take disciplinary action to suspend or
7 revoke a license issued by the Board.

8 18. Section 4301 states that:

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

12 * * *

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

14 * * *

15 (o) Violating or attempting to violate, directly or indirectly, or assisting
16 in or abetting the violation of or conspiring to violate any provision or term of
Chapter 9 (commencing with Section 4000) of the Business and Professions Code or
17 of the applicable federal and state laws and regulations governing pharmacy,
including regulations established by the Board."

18 19. Section 4342 states, in pertinent part, that:

19 "(a) The board may institute any action or actions as may be provided by
20 law and that, in its discretion, are necessary, to prevent the sale of pharmaceutical
preparations and drugs that do not conform to the standard and tests as to quality and
21 strength, provided in the latest edition of the United States Pharmacopoeia or the
National Formulary, or that violate any provision of the Sherman Food, Drug and
22 Cosmetic Law (Part 5 (commencing with Section 109875) of Division 104 of the
Health and Safety Code."

23 **REGULATORY PROVISIONS**

24 20. California Code of Regulations, title 16, Section 1714 states, in pertinent part:

25 * * *

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

* * *

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

5 21. California Code of Regulations, title 16, Section 1717, states that "(a) No
6 medication shall be dispensed on prescription except in a new container which conforms with
7 standards established in the official compendia."

8 22. California Code of Regulations, title 16, Section 1718, states:

9 "'Current Inventory' as used in Sections 4081 and 4332 of the Business
10 and Professions Code shall be considered to include complete accountability for all
dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332.

11 The controlled substances inventories required by Title 21, CFR, Section
12 1304 shall be available for inspection upon request for at least 3 years after the date of
the inventory."

13 23. Health and Safety Code section 11153, subdivision (a), states in pertinent part:

14 "(a) A prescription for a controlled substance shall only be issued for a
15 legitimate medical purpose by an individual practitioner acting in the usual course of
16 his or her professional practice. The responsibility for the proper prescribing and
dispensing of controlled substances is upon the prescribing practitioner, but a
17 corresponding responsibility rests with the pharmacist who fills the prescription.
18 Except as authorized by this division, the following are not legal prescriptions: (1) an
order purporting to be a prescription which is issued not in the usual course of
professional treatment or in legitimate and authorized research. . ."

19 24. Health and Safety Code section 111345 provides that:

20 "Any drug or device is misbranded if any word, statement, or other
21 information required by or under this part to appear on the label or labeling is not
22 prominently placed on the label or labeling with conspicuousness, as compared with
other words, statements, designs, or devices in the labeling, and in terms as to render
it likely to be read and understood by the ordinary individual under customary
conditions of purchase and use."

23 25. Health and Safety Code section 111430 states that "A drug or device is misbranded
24 if it was manufactured in an establishment not duly registered with the Secretary of Health,
25 Education, and Welfare of the United States."

26 26. 21 Code of Federal Regulations, Section 1301.71, states:

27 "(a) All applicants and registrants shall provide effective controls and
28 procedures to guard against theft and diversion of controlled substances. In order to
determine whether a registrant has provided effective controls against diversion, the

1 Administrator shall use the security requirements set forth in sections 1301.72-
2 1301.76 as standards for the physical security controls and operating procedures
3 necessary to prevent diversion. Materials and construction which will provide a
4 structural equivalent to the physical security controls set forth in sections 1301.72,
5 1301.73 and 1301.75 may be used in lieu of the materials and construction described
6 in those sections.”

4 COST RECOVERY

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

9 CONTROLLED SUBSTANCES/DANGEROUS DRUGS

10 28. Ambien (generic - Zolpidem Tartrate) is a dangerous drug as defined by Section
11 4022 and a controlled substance schedule IV as listed in the Health and Safety Code Section
12 11057, subdivision (d)(32). It is used for the treatment of insomnia or abnormal sleepfulness.

13 29. Vicodin ES (generic - Hydrocodone and Acetaminophen) is a dangerous drug as
14 defined Section 4022 and is classified as a Schedule III controlled substance as listed in the
15 Health and Safety Code Section 11056, subdivision (e)(5). It is a narcotic analgesic used in the
16 treatment of moderate to severe pain.

17 30. Xanax (generic – Alprazolam) is a dangerous drug as defined in Section 4022 and is
18 classified as a Schedule IV controlled substance as listed in the Health and Safety Code Section
19 11057(d)(1).

20 31. Ultram (generic – Tramadol) is a dangerous drug as defined in Section 4022 and is
21 used to treat moderate pain.

22 SUMMARY OF FACTS

23 32. The following facts are common to all charges of the Accusation:

24 a. On or about July 7, 2009, the Board received an anonymous online complaint
25 that Respondent Pharmacy had furnished controlled substances, including Vicodin ES, Ambien,
26 Xanax, and Tramadol, to teenagers without a prescription. The Board’s investigation did not
27 substantiate this allegation, but did find that the pharmacy was short Ambien 10 mg, Vicodin ES,
28 Xanax 2 mg, and Ultram 50 mg, as discussed in greater detail below.

1 b. On or about December 30, 2009, the Board's inspector visited the pharmacy
2 and observed Russian products on the shelves that contained labeling only in Russian.
3 Respondent Bagdasarian told the Board's investigator that the Russian products were either
4 herbal or dietary supplements. The Board's investigation found that the pharmacy had
5 unauthorized foreign drugs on their shelves. Respondents purchased drugs from ATE Nutritional
6 Inc., located at 1571 McDonald Avenue, Brooklyn, New York 11230, which was not licensed as
7 a non-resident wholesale distributor in California, as evidenced by the following invoices:

8

9

DANGEROUS DRUGS	INVOICE NUMBER	INVOICE DATE
Voltaren gel and Flucinar (fluocinolone acetonide)	38123	11/11/2008
Furacillin (Nitrofurantoin) and Flucinar	38953	01/16/2009
Voltaren Gel and Strepcid (Sulfanilamide)	39611	02/26/2009
Tetracycline Ophthalmic Ointment and Voltaren gel	40351	04/22/2009
Furacillin and Flucinar	41015	06/19/2009
Tetracycline Ophthalmic Ointment	42325	09/15/2009
Flucinar	43237	11/17/2009

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24 c. According to the U.S.C. Drug Information and the Internet, one of the
25 products on Respondent Pharmacy's shelves, No-Spa – Drotaverine, is an antispasmodic drug,
26 structurally related to papverine, which may have teratogenic effects on a fetus (i.e. can cause
27 birth defects.) Another product, Analgin (Metamizole) is a nonsteroidal anti-inflammatory drug.
28 Neither of these two drugs are available in this country, and they are the only drugs with English

1 on their packaging. The Board's inspector found that, on or about December 30, 2009 and exact
 2 dates unknown, the pharmacy had on its shelves for sale 40 foreign drugs or pharmaceuticals
 3 manufactured in a foreign country and labeled in a foreign language. The Board's inspector
 4 requested that Respondent Pharmacy remove all of the Russian products from their shelves, and
 5 send the inspector an inventory list regarding where these products were returned.

6 d. Commencing on December 30, 2009, a selected drug audit was performed by a
 7 Board inspector of the brand and generic forms of Vicodin ES, Ambien 10 mg, Xanax 2 mg and
 8 Ultram 50 mg. The audit period for Vicodin ES, Ambien 10 mg, Xanax 2 mg was from July 27,
 9 2006 through January 10, 2009, and the audit period for Tramadol 50 mg was from July 27, 2006
 10 through December 30, 2009. The Board's inspector requested that Respondent Lee take a "Stock
 11 in Hand" inventory of Tramadol 50 mg. The audit revealed the following drugs were short and/or
 12 unaccounted for by Respondents:

14 DRUG	07/27/2006 INVENTORY AMOUNT	PURCHASED AMOUNT	DISPENSED AMOUNT	01/10/2009 INVENTORY AMOUNT	AMOUNT SHORT
16 Ambien 10 mg	138	50,200	48,542	409	1,387
18 Vicodin ES	280	49,100	19,392	0	29,988
19 Xanax 2 mg	100	1,900	1,480	100	420
21 Tramadol 50 mg	0	200,900	205,095 (through 12/30/09)	1,146 (stock on hand inventory of 12/30/09)	Pharmacy did not account for at least 1,949

24 e. On or after January 8, 2010, the inspector received a letter from Respondents
 25 Bagdasarian and Lee stating that some of the Russian products were purchased from Lor Care
 26 Cosmetics, Inc., and admitting that they did not label the products correctly for sale in the U.S.
 27 Further, the letter indicated that the pharmacy could not contact the foregoing supplier, and
 28

1 therefore retained PharmEcology Services, WM Healthcare Solutions in Wauwatosa, Wisconsin,
2 a medical waste processor, to accept these medications for destruction.

3 f. Also, Respondents did not notify the Board that they had terminated a licensed
4 pharmacy technician for stealing drugs. In a letter to the Board, Respondent Lee stated that, on
5 February 11, 2009, a pharmacy technician employed at the pharmacy, Saro Khachaturian, was
6 caught in the act of stealing stock bottles of medications and was fired on the spot. Respondent
7 Lee claimed that the pharmacy technician was responsible for the huge losses of drugs.
8 Respondents did not include any evidence supporting this claim, did not report this incident to the
9 Board, and did not explain why they did not report the firing of Mr. Khachaturian to the Board.

10 g. On or about July 28, 2010, the Board received a letter from Mr. Khachaturian,
11 which stated that he had been dismissed from Respondent Pharmacy because he had requested
12 days off from work to prepare for his son's christening. The allegations of theft of drugs from
13 Respondent Pharmacy by Mr. Khachaturian could not be substantiated by the Board, due to a
14 lack of sufficient evidence.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Failure to Maintain Complete and Accurate Records for Controlled Substances)**

17 33. Respondents Bagdasarian, Lee and Ararat Plaza Pharmacy are subject to disciplinary
18 action under Section 4300 for unprofessional conduct as defined in Section 4301, subdivisions (j)
19 and (o), in conjunction with Sections 4081, subdivision (a) and 4105, and California Code of
20 Regulations, title 16, Section 1718 for failure to maintain a complete and accurate record for all
21 controlled substances/dangerous drugs received, sold, or otherwise disposed of by them.
22 Respondents were unable to account for substantial doses of narcotics, including Ambien 10 mg,
23 Vicodin ES, Xanax 2 mg and Tramadol 50 mg, per a selected drug audit performed by a Board
24 inspector, for the audit period from July 27, 2006 to January 10, 2009, as described in Paragraph
25 32 above as though fully set forth.

26 //

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1 Section 1301.71, for failing to maintain Respondent Pharmacy's facilities, space, fixtures, and
2 equipment so that drugs are safely and properly prepared, maintained, secured. Respondents
3 failed to secure and maintain its facilities from the alleged theft of drugs by pharmacy technician
4 Mr. Khachaturian, as claimed by Respondents Bagdasarian and Lee, and/or the loss of substantial
5 amounts of drugs that were not accounted for. Complainant refers to and by this reference
6 incorporates allegations of Paragraph 32 above as though fully set forth.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(Failure to Maintain Security of Controlled Substances)**

9 37. Respondents Bagdasarian and Lee are subject to disciplinary action under Section
10 4300 for unprofessional conduct as defined in Section 4301, subdivisions (j) and (o), in
11 conjunction with Sections 4113, subdivision (c) and 4115, subdivision (h), California Code of
12 Regulations, title 16, Section 1714, subdivisions (b) and (d), and 21 Code of Federal Regulations,
13 Section 1301.71, for failing to secure the prescription department and provide effective controls to
14 prevent theft and/or diversion of substantial amounts of controlled substances and dangerous
15 drugs, between July 27, 2006 and January 10, 2009, and maintain complete records for such
16 drugs. Complainant refers to and by this reference incorporates allegations of Paragraph 32
17 above as though fully set forth.

18 **SIXTH CAUSE FOR DISCIPLINE**

19 **(Purchase and/or Sale of Controlled Substances From An Unlicensed Entity)**

20 38. Respondents Bagdasarian, Lee and Ararat Plaza Pharmacy are subject to disciplinary
21 action under Section 4300 for unprofessional conduct as defined in Section 4301, subdivisions (j)
22 and (o), in conjunction with Sections 4076, 4113, subdivision (c), 4161, 4169, subdivision (a)(1),
23 4342, subdivision (a) and Health and Safety Code section 11153, subdivision (a), for purchasing
24 and/or selling controlled substances obtained from ATE Nutritional, Inc., an unlicensed entity.
25 Complainant refers to and by this reference incorporates allegations of Paragraph 32 above as
26 though fully set forth.

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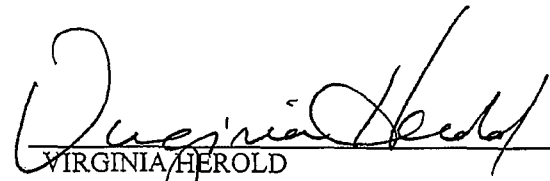
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4. Taking such other and further action as deemed necessary and proper.

DATED:

12/10/10



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

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