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

In the Matter of the Accusation Against:

**ROBERT BENLEVI
P.O. Box 7581
Santa Monica, CA 90406**

and

**1262 S. Barrington Avenue
Los Angeles, CA 90025**

Pharmacist License No. RPH 46690

Respondent.

Case No. 4081

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about June 15, 2012, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4081 against Robert Benlevi (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

1 2. On or about September 7, 1993, the Board of Pharmacy (Board) issued Pharmacist
2 License No. RPH 46690 to Respondent. The Pharmacist License expires on August 31, 2013,
3 and has not been renewed.

4 3. On or about September 14, 2012 and December 21, 2012, Respondent was served by
5 Certified and First Class Mail copies of the Accusation No. 4081, Statement to Respondent,
6 Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections
7 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business
8 and Professions Code section 4100, is required to be reported and maintained with the Board.

9 Respondent's address of record was and is:

10 P.O. Box 7581
11 Santa Monica, CA 90406

12 and

13 1262 S. Barrington Avenue
14 Los Angeles, CA 90025.

15 4. Service of the Accusation was effective as a matter of law under the provisions of
16 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
17 124.

18 5. On or about September 15, 2012, January 2, 2013, and January 8, 2013, the
19 aforementioned documents were returned by the U.S. Postal Service marked "Attempted Not
20 Known" and "Refused."

21 6. Government Code section 11506 states, in pertinent part:

22 (c) The respondent shall be entitled to a hearing on the merits if the respondent
23 files a notice of defense, and the notice shall be deemed a specific denial of all parts
24 of the accusation not expressly admitted. Failure to file a notice of defense shall
25 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
26 may nevertheless grant a hearing.

27 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
28 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
4081.

1 8. California Government Code section 11520 states, in pertinent part:

2 (a) If the respondent either fails to file a notice of defense or to appear at the
3 hearing, the agency may take action based upon the respondent's express admissions
4 or upon other evidence and affidavits may be used as evidence without any notice to
5 respondent.

6 9. Pursuant to its authority under Government Code section 11520, the Board finds
7 Respondent is in default. The Board will take action without further hearing and, based on the
8 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
9 taking official notice of all the investigatory reports, exhibits and statements contained therein on
10 file at the Board's offices regarding the allegations contained in Accusation No. 4081, finds that
11 the charges and allegations in Accusation No. 4081, are separately and severally, found to be true
12 and correct by clear and convincing evidence.

13 10. Taking official notice of its own internal records, pursuant to Business and
14 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
15 and Enforcement is \$3,822.00 as of May 10, 2013.

16 DETERMINATION OF ISSUES

17 1. Based on the foregoing findings of fact, Respondent Robert Benlevi has subjected his
18 Pharmacist License No. RPH 46690 to discipline.

19 2. The agency has jurisdiction to adjudicate this case by default.

20 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacist License
21 based upon the following violations alleged in the Accusation which are supported by the
22 evidence contained in the Default Decision Evidence Packet in this case:

23 a. First Cause for Discipline - Convictions of Substantially Related Crimes. Respondent
24 is subject to disciplinary action under sections 490, 4300, and 4301, subdivision (1), in
25 conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was
26 convicted of crimes substantially related to the qualifications, functions or duties of a pharmacist
27 which to a substantial degree evidence his present or potential unfitness to perform the functions
28 authorized by his license in a manner consistent with the public health, safety, or welfare. The
circumstances of the convictions are as follows:

1 On or about October 4, 2010, after pleading nolo contendere, Respondent was convicted of
2 one interlineated misdemeanor count of violating Penal Code section 484(a) [theft] in the criminal
3 proceeding entitled *The People of the State of California v. Robert Benlevi* (Super. Ct. Los
4 Angeles County, 2010, No. 0WA23640).

5 On or about July 14, 2010, after pleading nolo contendere, Respondent was convicted of
6 one misdemeanor count of violating Penal Code section 602.5(a) [enter/remain in noncommercial
7 dwelling] in the criminal proceeding entitled *The People of the State of California v. Robert*
8 *Benlevi* (Super. Ct. Los Angeles County, 2010, No. 0PY03731).

9 On or about April 28, 2010, after being found guilty by jury, Respondent was convicted of
10 violating Penal Code section 602.5(a) [enter/remain in noncommercial dwelling] in the criminal
11 proceeding entitled *The People of the State of California v. Robert Benlevi* (Super. Ct. Los
12 Angeles County, 2010, No. 0PY01865).

13 On or about March 1, 2005, after pleading nolo contendere, Respondent was convicted of
14 violating Penal Code section 470(a) [forgery], a felony, in the criminal proceeding entitled *The*
15 *People of the State of California v. Robert Benlevi* (Super. Ct. Los Angeles County, 2005, No.
16 SA055436).

17 b. Second Cause for Discipline – Acts Involving Moral Turpitude, Dishonesty, Fraud,
18 Deceit. Respondent is subject to disciplinary action under sections 4300 and 4301,
19 subdivision (f), in that Respondent committed acts involving moral turpitude, dishonesty, fraud,
20 deceit, or corruption. Complainant refers to and by this reference incorporates the allegations set
21 forth above in paragraph 3, inclusive, as though set forth fully.

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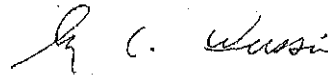
ORDER

IT IS SO ORDERED that Pharmacist License No. RPH 46690, heretofore issued to Respondent Robert Benlevi, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 22, 2013.

It is so ORDERED July 23, 2013.



STANLEY C. WEISSER, BOARD PRESIDENT
FOR THE BOARD OF PHARMACY

DEPARTMENT OF CONSUMER AFFAIRS

51293411.DOC
DOJ Matter ID:LA2011600967

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY SALUTE
Supervising Deputy Attorney General
3 HEATHER HUA
Deputy Attorney General
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Attorneys for Complainant
7

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

11 In the Matter of the Accusation Against:

Case No. 4081

12 **ROBERT BENLEVI**
13 P.O. Box 7581
Santa Monica, CA 90406

A C C U S A T I O N

14 Pharmacist License No. RPH 46690

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board).
21 2. On or about September 7, 1993, the Board issued Pharmacist License No. RPH 46690
22 to Robert Benlevi (Respondent). The Pharmacist License is inactive and will expire on August
23 31, 2013, unless renewed.

24 **JURISDICTION**

- 25 3. This Accusation is brought before the Board under the authority of the following
26 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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1 licensee or registrant to perform the functions authorized by his license or registration in a manner
2 consistent with the public health, safety, or welfare."

3 **COST RECOVERY**

4 9. Section 125.3 provides that the Board may request the administrative law judge to
5 direct a licentiate found to have committed a violation or violations of the licensing act to pay a
6 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Convictions of Substantially Related Crimes)**

9 10. Respondent is subject to disciplinary action under sections 490, 4300, and 4301,
10 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, in that
11 Respondent was convicted of crimes substantially related to the qualifications, functions or duties
12 of a pharmacist which to a substantial degree evidence his present or potential unfitness to
13 perform the functions authorized by his license in a manner consistent with the public health,
14 safety, or welfare. The circumstances of the convictions are as follows:

15 a. On or about October 5, 2010, after pleading nolo contendere, Respondent was
16 convicted of one interlineated misdemeanor count of violating Penal Code section 484(a) [theft]
17 in the criminal proceeding entitled *The People of the State of California v. Robert Benlevi* (Super.
18 Ct. Los Angeles County, 2010, No. 0WA23640). The Court sentenced Respondent to three (3)
19 days in jail, placed him on 24 months probation, and ordered him to stay away from Sears, Santa
20 Monica. The circumstances underlying the conviction are that on or about June 18, 2010,
21 Respondent entered Sears, Santa Monica, and stole a pair of swim shorts and a T-shirt, valued at
22 about \$40.00.

23 b. On or about July 14, 2010, after pleading nolo contendere, Respondent was convicted
24 of one misdemeanor count of violating Penal Code section 602.5(a) [enter/remain in
25 noncommercial dwelling] in the criminal proceeding entitled *The People of the State of California*
26 *v. Robert Benlevi* (Super. Ct. Los Angeles County, 2010, No. 0PY03731). The Court sentenced
27 Respondent to 60 days in jail, placed him on 36 months probation, and ordered him to undergo
28 six (6) months of psychological counseling at the rate of two (2) sessions per month. The

1 circumstances underlying the conviction are that on or about June 23, 2010, in violation of a
2 restraining order on file with the Los Angeles Police Department, Respondent entered a vacant
3 apartment from which he had been evicted.

4 c. On or about April 28, 2010, after being found guilty by a jury, Respondent was
5 convicted of violating Penal Code section 602.5(a) [enter/remain in noncommercial dwelling] in
6 the criminal proceeding entitled *The People of the State of California v. Robert Benlevi* (Super.
7 Ct. Los Angeles County, 2010, No. 0PY01865). The Court placed Respondent on 36 months
8 probation, ordered him to complete ten (10) days of Cal Trans, and ordered him to stay away
9 from L.H., C.H. and 6230 Reseda Blvd, Tarzana. The circumstances underlying the conviction
10 are that on or about October 2009 through March 29, 2010, Respondent had been entering and
11 leaving his evicted apartment at 6230 Reseda Blvd. by entering the apartment through the roof
12 and jumping into the balcony. On or about March 29, 2010, Respondent was found sitting in the
13 middle of his evicted apartment's living room.

14 d. On or about March 1, 2005, after pleading nolo contendere, Respondent was
15 convicted of violating Penal Code section 470(a) [forgery], a felony, in the criminal proceeding
16 entitled *The People of the State of California v. Robert Benlevi* (Super. Ct. Los Angeles County,
17 2005, No. SA055436). The Court sentenced Respondent to 15 days in jail, placed him 36 months
18 probation, ordered him to complete thirty (30) days of Cal Trans, and stay away from Washington
19 Mutual located at 1550 Westwood Blvd., Los Angeles. Respondent was ordered to pay
20 restitution to Washington Mutual. The circumstances underlying the conviction are that on or
21 about February 18, 2005, Respondent entered a Washington Mutual Bank and tried to open a new
22 checking account with false identification documents in another person's name.

23 SECOND CAUSE FOR DISCIPLINE

24 (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit)

25 11. Respondent is subject to disciplinary action under sections 4300 and 4301,
26 subdivision (f), in that Respondent committed acts involving moral turpitude, dishonesty, fraud,
27 deceit, or corruption. Complainant refers to and by this reference incorporates the allegations set
28 forth above in paragraph 10, inclusive, as though set forth fully.

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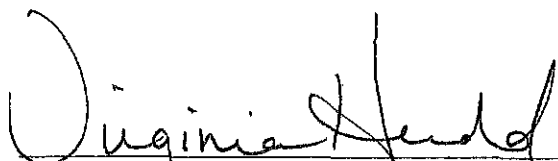
PRAYER

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

1. Revoking or suspending Pharmacist License No. RPH 46690, issued to Robert Benlevi;
2. Ordering Robert Benlevi to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED:

6/15/12



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

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