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

In the Matter of the Accusation Against: **ALY MOHAMED FATHY** 31852 Pacific Coast Hwy 103 Laguna Beach, CA 92651 **Pharmacist License No. RPH 39394** Respondent.	Case No. 4126 OAH No. 2012020193

DECISION AND ORDER

The Board of Pharmacy having read and considered respondent's petition for reconsideration of the board's decision effective March 4, 2013, NOW THEREFORE IT IS ORDERED that the petition for reconsideration is denied. The Board of Pharmacy's Decision and Order initially effective February 21, 2013, and thereafter stayed to March 4, 2013, is the Board of Pharmacy's final decision in this matter.

Date: February 28, 2013

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____
STANLEY C. WEISSER
Board President

BEFORE THE
BOARD OF PHARMACY
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In the Matter of the Accusation Against: **ALY MOHAMED FATHY** 31852 Pacific Coast Hwy 103 Laguna Beach, CA 92651 Pharmacist License No. RPH 39394 Respondent.	Case No. 4126 OAH No. 2012020193

DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on February 21, 2013.

It is so ORDERED on January 22, 2013.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____
STANLEY C. WEISSER
Board President

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	Case No. 4126
ALY MOHAMED FATHY, Pharmacist License No. RPH 39394, Respondent.	OAH No. 2012020193

PROPOSED DECISION

Mary Agnes Matyszewski, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter at San Diego, California on December 5, 2008.

Marichelle Tahimic, Deputy Attorney General, Department of Justice, State of California, represented complainant, Virginia Herold, Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, State of California (Board).

John Alan Cohan, Attorney at Law, represented respondent, Aly Mohamed Fathy, who was present throughout the administrative proceeding.

Oral and documentary evidence was received and the matter was submitted on December 5, 2012.

CASE SUMMARY

Between October 2010 and April 2011, respondent, a licensed pharmacist, forged physician signatures on prescriptions that he submitted to a pharmacy in Canada for processing. Several prescriptions were filled before the Canadian pharmacy contacted one of the physicians and respondent's misconduct was disclosed. Although respondent was remorseful, he failed to appreciate the significance of his misconduct, attempting to rationalize it by explaining that he was in financial difficulty, the drugs were the same as those manufactured in the United States, and he only wrote prescriptions for family and friends. In addition, respondent failed to disclose the extent of the charges against him to the individuals who wrote reference letters on his behalf, further indicating respondent's lack of candor and lack of rehabilitation. Accordingly, based on this record, the only measure of

discipline that will adequately protect the public is the outright revocation of respondent's license.

FACTUAL FINDINGS

Jurisdictional Matters

1. On November 9, 2011, complainant signed the accusation in her official capacity. The accusation sought the revocation or suspension of respondent's license and an award of costs. The accusation charged respondent with dishonesty (first cause for discipline), signing documents with false representations (second cause for discipline) and forging prescriptions (third cause for discipline). The accusation requested that respondent's prior citation issued on November 10, 2010, be a disciplinary consideration.[1]

Respondent was served with the accusation and other required jurisdictional documents. He timely filed a notice of defense.

Respondent's License History

2. On August 8, 1985, the Board issued Pharmacist License Number RPH 39394 to respondent. At all times that license has been in full force and effect and will expire on April 30, 2013, unless revoked.

3. On November 10, 2010, Citation Number CI 2010 46226 was issued to respondent for seven violations: failure to complete required DEA forms for Schedule II drugs, failure to have a theft or impairment policy in place, failure to have a quality assurance policy, failure to have a DEA inventory log on site, failure to have a compounding/repackaging log available, failure to maintain patient confidentiality, and failure to correctly label dispensed medication. Respondent was fined $2,750. Respondent testified that he paid the fine and introduced documents demonstrating the changes he made to comply with the violations identified in the citation.

4. On July 29, 2011, Citation Number CI 2011 49057 was issued against respondent for eight violations: sale of expired medications, dusty shelves/improper maintenance of refrigerator, failure to maintain required records for compounded medications, failure to post permits and license in public view, failure to properly initial

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[1] During closing arguments complainant moved to amend the accusation to also include another citation issued to respondent on July 29, 2011. Respondent objected and that motion was denied as untimely. However, during the hearing respondent did not object when that citation was introduced as an exhibit. Respondent was asked about that citation when he testified. Furthermore, the Board can take official notice of respondent's license history. Accordingly, the 2011 citation is referenced in the license history section of this decision.

phoned in prescriptions, failure to report CURES data, variation of prescription without prescriber consent, and dispensing expired medications. Respondent was fined $8,600. Respondent testified that he paid the fine and introduced documents demonstrating the changes he made to comply with the violations identified in the citation.

Respondent's Forgery of Prescriptions

5. Respondent previously owned[2] the only pharmacy on the South Coast Hospital campus. Physicians on the campus referred patients to respondent's pharmacy and respondent supplied physicians with prescription pads for their practices. By all accounts, respondent enjoyed a good working relationship with the physicians at South Coast. However, all of that changed in the fall of 2010. Debra Miller, M.D., at the time a South Coast pediatrician, testified that in September 2010 she received a phone call from a Canadian pharmacy requesting clarification of one of her prescriptions. Dr. Miller advised the pharmacy that she had not written the prescription and requested they fax a copy of it to her. When she reviewed the prescription, she noted that the signature on the prescription was not hers, that respondent was listed as the patient even though he was not her patient, and that the prescription was written for a medication she had not prescribed. Dr. Miller immediately notified the proper authorities and instituted security measures to prevent future recurrences.

Respondent approached Dr. Miller to discuss the incident. He expressed remorse and explained he forged the prescription and submitted it to a Canadian pharmacy for financial reasons because he could get the medications cheaper in Canada. Respondent promised he would never forge her name on a prescription again. Dr. Miller was satisfied with respondent's remorse and elected not to press charges against him because South Coast was in the midst of a hostile takeover bid at the time and she did not want to weaken the physicians' negotiating position.

In April 2011, Dr. Miller learned that respondent was still forging prescriptions in her name when she received another call from a Canadian pharmacy about one of her prescriptions. Again, she requested a copy of the prescription and she again noted that it was not her signature, not her patient, and not a medication she had prescribed. Dr. Miller notified the Board, and the Board conducted an investigation and discovered that in addition to Dr. Miller, respondent had submitted forged prescriptions to the Canadian pharmacy in the names of Gabor Kovacs, M.D., and Frances Duda, M.D. Board Inspector Simin Samari testified that those physicians denied writing the prescriptions. At this hearing, respondent admitted he forged their names on prescriptions as well. The inspector and Dr. Miller also testified that when Dr. Miller's blank prescription pads were retrieved from respondent's pharmacy, the prescription at the top of the pad had indentations on it that suggested that the prescription that had been on top of the pad had been used, something Dr. Miller also did not authorize.

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[2] In July 2011 respondent sold his inventory and customer base to CVS but retained the rights to operate a compounding pharmacy.

Respondent admitted all of the charges set forth in the accusation. He asserted that he is a good pharmacist who only forged prescriptions for his family and friends. Respondent testified that he has always taken good care of his customers and his physicians. He stated that the small pharmacists are being squeezed out of business by large pharmacy chains and insurance companies and that purchasing prescriptions in Canada was a way for him to remain financially viable. Respondent filed for bankruptcy in 2010 and thereafter sold his pharmacy. Respondent acknowledged that the drugs obtained from Canada were not FDA approved, but testified that they were the same drugs as those sold in the United States. Respondent did not offer any insight into the fact that by writing forged prescriptions he put the physicians' licenses at risk or that he was improperly prescribing medications to family and friends.

Letters of Reference

6. Respondent submitted numerous letters of reference from upstanding and influential citizens. While all of the letters attested to respondent's good character, not one of them mentioned the charges in the accusation. Respondent admitted that he did not tell the author of any reference letter about the charges; he only told tem he had "made a mistake" by ordering prescriptions from Canada. It goes without saying that placing orders with a Canadian pharmacy involves vastly different wrongdoing than repeatedly forging physicians' names on prescriptions. Under the circumstances, the letters of reference were unpersuasive.

Disciplinary Guidelines

7. The Board's Disciplinary Guidelines (Guidelines) contain a section entitled "FACTORS TO BE CONSIDERED IN DETERMINING PENALTIES" that includes the following:

> In determining whether the minimum, maximum, or an intermediate penalty is to be imposed in a given case, factors such as the following should be considered:
>
> Actual or potential harm to the public;
>
> Actual or potential harm to any consumer;
>
> Prior disciplinary record, including level of compliance with disciplinary order(s);
>
> Prior warning(s), including but not limited to citation(s) and fine(s), letters of admonishment, and/or correction notice(s);

Number and/or variety of current violations;

Nature and severity of the act(s), offense(s), or crime(s) under consideration;

Aggravating evidence;

Mitigating evidence;

Rehabilitation evidence;

Compliance with terms of any criminal sentence, parole, or probation;

Overall criminal record;

If applicable, evidence of proceedings for case being set aside and dismissed pursuant to Section 1203.4 of the Penal Code;

Time passed since the act(s) or offense(s);

Whether the conduct was intentional or negligent, demonstrated incompetence, or, if the respondent had knowledge of or knowingly participated in the conduct;

Financial benefit to the respondent from the misconduct.

The Guidelines divide the violations into categories. A violation of Business and Professions Code section 4301 is considered a Category II offense with a recommended maximum penalty of revocation and a recommended minimum penalty of revocation, stayed, three years probation with appropriate terms and conditions. A violation of Business and Professions Code section 4324 is considered a Category III offense with a recommended maximum penalty of revocation and a recommended minimum penalty of revocation, stayed, 90 days actual suspension, three to five years probation with appropriate terms and conditions.

The Guidelines were considered when determining the appropriate discipline in this mater.

Cost Recovery

8. Business and Professions Code section 125.3, permits the Board to seek the reasonable costs of its investigation and enforcement in these matters. The certification of costs submitted in this matter from the Board indicated that the inspector billed $4,080 for 40 hours of investigative work billed at $102 per hour. The time spent in the investigation and the hourly rate was reasonable based on the issues raised by the accusation.

The certification of costs from the Department of Justice (DOJ) indicated the Deputy Attorney General billed $7,200 for legal services, which was documented by a "Matter Time Activity By Professional Type" print-out from the DOJ and the deputy's declaration. The legal costs incurred were reasonable in both the services provided and time spent on each task.

The DAG's declaration also estimated that an additional three hours would be incurred for further preparation of the case. The total cost recovery for that work was $510. No information was provided regarding what the additional three hours of work would entail. These costs were speculative and no determination as to their reasonableness can be made.

The reasonable cost of investigation and enforcement totals $11,280.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. *Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856, holds that "clear and convincing proof to a reasonable certainty" applies in disciplinary proceedings seeking to revoke or suspend a professional license.

Relevant Statutory Provisions

2. Business and Professions Code section 4300 provides that a pharmacy license may be suspended or revoked.

3. Business and Professions Code section 4301 authorizes the Board to take action against a licensee who has committed unprofessional conduct. Unprofessional conduct includes committing acts of dishonesty, fraud, and knowingly making or signing documents that falsely represent facts.

4. Business and Professions Code section 4324 provides that any person forging prescriptions is subject to imprisonment.

5. Business and Professions Code section 125.3 authorizes the Board to seek cost recovery.

Relevant Appellate Authority

6. The term "unprofessional conduct" when used in a disciplinary statute is not limited to certain enumerated conduct set forth in the statute, but also includes conduct which breaches the rules or ethical code of a profession, or conduct which is unbecoming a member in good standing of a profession. The term should not be constricted so as to defeat the legislative purpose. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

Evaluation

7. Clear and convincing evidence established that respondent forged several prescriptions and obtained prescription medications under physicians' names while knowing that he was forging those physicians' names. Respondent's explanation that the drugs were safe and that he only prescribed to family and close friends demonstrated that he failed to appreciate the fact that he was risking the professional licenses of the physicians who trusted him, not to mention the health of those to whom he forged the prescriptions. The physicians could very easily have found themselves the subject of disciplinary investigations for prescriptions they did not authorize, write, or have any knowledge about. Respondent's actions were dishonest, involved preparing documents he knew to be false, and forgery. Respondent's blasé attitude, his use of his license in this manner, and his explanation that he committed these acts solely for financial reasons established that the only measure of discipline that will ensure public protection is the outright revocation of his license. Imposing an outright revocation is consistent with the recommendations set forth in the Board's disciplinary guidelines and the factors related to determining penalties.

Cost Recovery

8. *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32 held that the imposition of costs for investigation and enforcement under California Code of Regulations, title 16, section 317.5 (which is very similar to Bus. & Prof. Code, § 125.3) did not violate due process in a case involving the discipline of a licensed chiropractor. But, the California Supreme Court held that it was incumbent upon the State Board of Chiropractic Examiners to exercise its discretion to reduce or eliminate cost awards in a manner that ensured that the application of section 317.5 did not "deter chiropractors with potentially meritorious claims or defenses from exercising their right to a hearing."

The Supreme Court set forth four factors that the licensing agency was required to consider in deciding whether to reduce or eliminate costs: (1) whether the licensee used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed; (2) whether the licensee had a " subjective" good faith belief in the merits of his position; (3) whether the licensee raised a "colorable challenge" to the proposed discipline; and (4) whether the licensee had the financial ability to make payments.

Since section 317.5 and Business and Professions Code section 125.3 have substantially the same language and seek the same sort of cost recovery, it is reasonable to

extend the reasoning in *Zuckerman* to Business and Professions Code section 125.3 to avoid constitutional pitfalls.

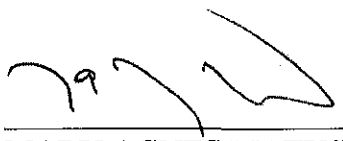
Here, respondent admitted to all the charges but sought a lesser penalty than revocation, arguing that he was remorseful. Respondent introduced several letters of reference attesting to his good character. The fact that he chose not to tell a single author of a letter of reference about the true charges in this case spoke volumes about his character and made it impossible to believe he honestly thought that such incomplete letters would actually constitute "rehabilitation evidence." No reasonable person could maintain a subjective belief in the merits of respondent's defense, and respondent did not raise a "colorable challenge" to any of the charges. While it is true that respondent filed bankruptcy in 2010 and sold his pharmacy to CVS, the evidence did not establish that respondent lacked the means to pay cost recovery. Moreover, the costs were incurred solely because of respondent's dishonest and deliberate actions in the first place – actions he continued to engage in after promising the physicians he would not. Respondent shall pay all reasonable cost recovery as established by the evidence.

ORDERS

Pharmacist License Number RPH 39394 issued to Aly Mohamed Fathy is revoked.

Respondent shall pay $11,280 in costs to the Board. Should respondent ever re-apply for licensure, these costs are to be paid in full prior to the Board granting respondent reinstatement.

DATED: December 18, 2012



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

In the Matter of the Accusation Against: **ALY MOHAMED FATHY** 31852 Coast Highway #103 Laguna Beach, CA 92651 **Pharmacist License No. RPH 39394** Respondent.	Case No. 4126 **A C C U S A T I O N**

Complainant alleges:

PARTIES

1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

2. On or about August 8, 1985, the Board of Pharmacy issued Pharmacist License Number RPH 39394 to Aly Mohamed Fathy (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2013, unless renewed.

JURISDICTION

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

4. Section 4300 of the Code states:

(a) Every license issued may be suspended or revoked.

(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

(1) Suspending judgment.

(2) Placing him or her upon probation.

(3) Suspending his or her right to practice for a period not exceeding one year.

(4) Revoking his or her license.

(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

. . .

(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

5. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY PROVISIONS

6. 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: . . .

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

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

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7. Section 4324 of the Code states:

> (a) Every person who signs the name of another, or of a fictitious person, or falsely makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year. . . .

COST RECOVERY

8. Section 125.3 of the Code states, 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.

FACTS

9. On or about November 2, 2010, the Board of Pharmacy received a faxed copy of an incident/investigation report from Laguna Beach Police Department initiated by a complaint involving fraud received by the Laguna Beach Police Department from Dr. M. on October 25, 2010. According to the report, Dr. M. is a sole practitioner. She received a telephone call from a Canadian pharmacy on September 24, 2010 with regard to an incomplete prescription purportedly written by her. The Canadian pharmacy sent Dr. M. a scanned copy of the prescription form. Dr. M. recognized the prescription form as one of hers but advised the officer that she did not prescribe the drug and that the form was not in her handwriting. The name of the patient on the prescription was "Aly Fathy." Dr. M. recognized the name as that of Respondent, who was her pharmacist.

10. Dr. M. is a pediatrician whose office was in the same building as South Coast Center West Pharmacy where Respondent is the Pharmacist-In-Charge. The pharmacy routinely orders prescription books for local physicians, including the physician from whom Dr. M. purchased her practice. When Dr. M. moved into the building, she continued the practice of having the pharmacy order prescription books for her. After Dr. M. was contacted by the Canadian Pharmacy, she instructed them not to fill any orders under her name. She then went to the pharmacy to pick up all of her prescription books.

11. Dr. M. opted not to prosecute Respondent because two weeks after the unauthorized prescription was submitted, Respondent approached her in her office and admitted that he wrote the prescription in her name. Respondent told Dr. M. that he would never do it again and that he did it because he was losing profits and may go into bankruptcy and that he did not have enough money to pay for his prescriptions. Dr. M. was satisfied with his apology and the remorse expressed by Respondent and chose to delay reporting the incident to the police.

12. On April 11, 2011, Dr. M. notified a Board of Pharmacy inspector that she was notified of another prescription submitted to the Canadian pharmacy in her name. The prescription was for "Theresa M." for four medications (Niaspan ER, Celebrex, Singular and Lamactal). Dr. M. requested the original prescription and noted that her signature had been forged. When Dr. M. contacted the Canadian Pharmacy, she learned that a "Martin Lopez" opened an online account with the Canadian Pharmacy on May 10, 2010 and subsequently added ten patients to the account. The patients who had medications purportedly ordered by Dr. M. and refilled periodically during the summer of 2010 were Theresa M. (born in 1952), Bill E. (born in 1941), including Dean F. (born in 1942) and Respondent. None of these patients were Dr. M.'s pediatric patients and she did not write the prescriptions. The prescriptions requested the brand names of Crestor, Plavix, Boniva, Seroquel, Levaquin, Viagra, Niaspan, and Lamictal with multiple refills. Dr. M. obtained the account's contact telephone number. When Dr. M. called that telephone number, she reached Respondent's voice mail.

13. In addition to prescriptions purportedly written by Dr. M., the account opened by "Martin Lopez" included prescriptions purportedly written by Dr. D. for patients Martin L., Pam F. and Bill E. and were for Valtrex, Maxalat MLT, Lipitor, Celebrex, Singulair, Seroquel and Cafergot. Dr. D., who is also a pediatrician, denied writing the prescriptions. Dr. D. also ordered her prescription books through South Coast Center West Pharmacy.

14. On April 27, 2011, a Board inspector conducted an inspection of South Coast Center West Pharmacy. Respondent was present. When asked about the forged prescriptions, Respondent admitted to the Board inspector that he forged the prescriptions to obtain medication for himself and his family members.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Committing Acts Involving Dishonesty, Fraud or Deceit)

15. Respondent is subject to disciplinary action under Code section 4301, subdivision (f), in that Respondent committed acts involving dishonesty, fraud and deceit between May 2010 and February 2011 by representing himself to be a physician and forging prescriptions for multiple patients and drugs using the prescription books and signatures of Dr. M. and Dr. D and submitting the prescriptions to a Canadian pharmacy to be filled as more fully set forth in paragraphs 9-14 above and incorporated herein as though set forth in full.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Making or Signing Document with False Representation)

16. Respondent is subject to disciplinary action under Code section 4301, subdivision (g), in that Respondent knowingly made or signed a document that falsely represents the existence of a state of facts in that between May 2010 and February 2011, Respondent represented himself to be a physician by signing prescriptions using the name of Dr. M. and Dr. N. D and submitting the prescriptions to a Canadian pharmacy to be filled as more fully set forth in paragraphs 9-14 above and incorporated herein as though set forth in full.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Forgery of Prescriptions)

17. Respondent is subject to disciplinary action under Code section 4324 in that Respondent signed the name of another and passed as genuine the forged prescriptions when Respondent forged the signatures of Dr. M. and Dr. D. on prescriptions for medication and passed the prescriptions as genuine to a Canadian pharmacy between May 2010 and February 2011, as more fully set forth in paragraphs 9-14 above and incorporated herein as though set forth in full.

DISCIPLINE CONSIDERATIONS

18. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about November 10, 2010, the Board of Pharmacy issued Citation Number CI 2010 46226 to Respondent for: 1) violation of title 21 Code of Federal Regulations section 1305.13(e) for failure to complete a Schedule II controlled substance purchaser record on

DEA 222 Order Form; 2) violation of Business and Professions Code sections 4104(a) and (b) for failing to have theft or impairment policies and procedures; 3) violation of Business and Professions Code section 4125(a) and title 16 California Code of Regulations section 1711 for failure to establish a Quality Assurance Policy; 4) violation of title 21 Code of Federal Regulations section 1304.11(a) for failure to maintain controlled substance inventories; 5) violation of title 16 California Code of Regulations section 1716.2 for failure to have a compounding/repackaging log available for review on the premises; 6) violation of title 16 California Code of Regulations section 1764 for the unauthorized disclosure of prescriptions when Respondent discarded patient prescription documentation in a trash bin accessible by the public; and, 7) violation of Business and Professions Code section 4076(a)(11)(A) for dispensing incorrectly labeled prescriptions.

Citation Number CI 2010 46226 ordered Respondent to pay a fine in the amount of $2,750. That Citation is now final and has not been appealed. It is incorporated by this reference as though set forth in full.

PRAYER

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

1. Revoking and/or suspending Pharmacist License Number RPH 39394, issued to Aly Mohamed Fathy;

2. Ordering Aly Mohamed Fathy to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 11/9/11

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