



California State Board of Pharmacy
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BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY
 DEPARTMENT OF CONSUMER AFFAIRS
 GOVERNOR EDMUND G. BROWN JR.

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 CALIFORNIA STATE BOARD OF PHARMACY

APPLICATION FOR VOLUNTARY SURRENDER OF PHARMACIST / INTERN LICENSE

PLEASE PRINT IN BLACK OR BLUE INK OR TYPE YOUR RESPONSES

Name: <u>SERJ S MARKARTIAN</u>	Case No. <u>4645</u>
Address of Record: <u>7766 N. Glenoaks Blvd.</u> <u>Burbank CA 91504</u>	

Pursuant to the terms and conditions of my probation with the California State Board of Pharmacy (Board) in Case No. 4645, I hereby request to surrender my license, License No. 54284. The Board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, I will no longer be subject to the terms and conditions of probation. I understand that this surrender constitutes a record of discipline and shall become a part of my license history with the Board.

Upon the acceptance of the surrender, I shall relinquish my pocket and wall license to the Board within ten (10) days of notification by the Board that the surrender is accepted. I understand that I may not reapply for any license from the board for three (3) years from the effective date of the surrender. I further understand that I shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board, including any outstanding costs.

PLEASE BE ADVISED THAT YOU ARE NOT RELIEVED OF THE REQUIREMENTS OF YOUR PROBATION UNLESS THE BOARD NOTIFIES YOU THAT YOUR REQUEST TO SURRENDER YOUR LICENSE HAS BEEN ACCEPTED.

[Signature]
 Applicant's Signature

8/5/14
 Date

[Signature]
 Executive Officer's Approval

8/15/14
 Date

All items on this application are mandatory in accordance with your probationary order and the Board's Disciplinary Guidelines as authorized by Title 16, California Code of Regulations section 1760. Failure to provide any of the requested information or providing unreadable information will result in the application being rejected as incomplete. The information provided on this form will be used to determine eligibility for surrender. The official responsible for information maintenance is the Executive Officer, telephone (916) 574-7900, 1625 N. Market Blvd., Suite N-219, Sacramento, CA 95834. The information you provide may also be disclosed in the following circumstances: (1) in response to a Public Records Act request; (2) to another government agency as required by state or federal law; or, (3) in response to a court or administrative order, a subpoena, or a search warrant. Each individual has the right to review the files or records maintained on them by our agency, unless the records are identified as confidential information and exempted by Section 1798.40 of the Civil Code.

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

In the Matter of the Accusation and Petition to
Revoke Probation Against:

Case No. 4645

OAH No. 2013101152

**SERJ SOUKAZ MARKARIAN, AKA SEROJ
SOUKIAZIAN**

7766 N. Glenoaks Blvd.
Burbank, CA 91504

Pharmacist License No. RPH 54284

Respondent.

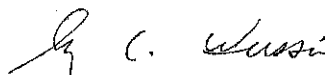
DECISION AND ORDER

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 June 20, 2014.

It is so ORDERED on May 21, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER
Board President

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

In the Matter of the Accusation and Petition to
Revoke Probation Against:

SERJ SOUKAZ MARKARIAN, AKA SEROJ
SOUKIAZIAN
Pharmacist License No. RPH 54284

Respondent.

Case No. 4645

OAH No. 2013101152

PROPOSED DECISION

This matter was heard by Laurie R. Pearlman, Administrative Law Judge (ALJ) with the Office of Administrative Hearings, on March 21, 2014, in Los Angeles, California. Complainant was represented by William D. Gardner, Deputy Attorney General. Serj Soukaz Markarian, aka Seroj Soukiazian (Respondent) was represented by Tony J. Park, Attorney at Law.

Oral and documentary evidence was received and argument was heard. The record was closed and the matter was submitted for decision on March 21, 2014.

FACTUAL FINDINGS

1. On September 19, 2013, Complainant Virginia Herold (Complainant) filed the Accusation and Petition to Revoke Probation while acting in her official capacity as Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

2. On March 20, 2003, the Board issued Pharmacist License No. RPH 54284 to Respondent. The Pharmacist License is in full force and effect and will expire on September 30, 2014, unless renewed.

Prior Discipline of Respondent's Pharmacist License

3. Effective June 17, 2012, in Case No. 3601, entitled *In the Matter of the Accusation against Serj Soukaz Markarian* (Prior Decision), the Board revoked Respondent's Pharmacist License. However, the revocation was stayed, his license was suspended for 60 days and Respondent's License was placed on probation for five years under terms and conditions which included the following:

[Condition] 4. Interview with 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.

[¶] . . . [¶]

[Condition] 7. Notification to Pharmacist-in-charge

During the period of probation, respondent shall notify all present and prospective employers of the decision in case number 3601 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause his or her direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and owner to report to the board in writing acknowledging that the listed individual(s) has/have read the decision in case number 3601, and terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his or her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

[¶] . . . [¶]

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

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

[Condition] 17. Mental Health Evaluation

Within thirty (30) days of the effective date of this decision, and on a periodic basis as may be required by the board or its designee, respondent shall undergo, at his or her own expense, psychiatric evaluation(s) by a

board-appointed or board-approved licensed mental health practitioner. The approved evaluator shall be provided with a copy of the board's [accusation or petition to revoke probation] and decision. Respondent shall sign a release authorizing the evaluator to furnish the board with a current diagnosis and a written report regarding the respondent's judgment and ability to function independently as a pharmacist with safety to the public. Respondent shall comply with all the recommendations of the evaluator if directed by the board or its designee.

[Condition] 18. Pharmacists' Recovery Program

Within thirty (30) days of the effective date of this decision, respondent shall contact the Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll, successfully participate in, and complete the treatment contract and any subsequent addendums as recommended and provided by the PRP and as approved by the board or its designee. The costs for PRP participation shall be borne by the respondent.

[¶] . . . [¶]

Failure to timely contact or enroll in the PRP, or successfully participate in and complete the treatment contract and/or any addendums, shall be considered a violation of probation.

[¶] . . . [¶]

[Condition] 19. Random Drug Screening

Respondent, at his own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug screening program as directed by the board or its designee. Respondent may be required to participate in testing for the entire probation period and the frequency of testing will be determined by the board or its designee. At all times, respondent shall fully cooperate with the board or its designee, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its designee may direct. Failure to timely submit to testing as directed shall be considered a violation of probation. Upon request of the board or its designee, respondent shall provide documentation from a licensed practitioner that the prescription for a detected drug was legitimately issued and is a necessary part of the treatment of the respondent. Failure to timely provide such documentation shall be considered a violation of probation. Any

confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall be considered a violation of probation and shall result in the automatic suspension of practice of pharmacy by respondent. Respondent may not resume the practice of pharmacy until notified by the board in writing.

[¶] . . . [¶]

[Condition] 20. Abstain from Drug and Alcohol Use

Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the board or its designee, respondent shall provide documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of the treatment of the respondent. Failure to timely provide such documentation shall be considered a violation of probation. Respondent shall ensure that he is not in the same physical location as individuals who are using illicit substances even if respondent is not personally ingesting the drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia not supported by the documentation timely provided, and/or any physical proximity to persons using illicit substances, shall be considered a violation of probation.

[¶] . . . [¶]

[Condition] 21. Prescription Coordinator/Monitor

Within thirty (30) days of the effective date of this decision, respondent shall submit to the board, for its prior approval, the name and qualifications of a single physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice, who shall be aware of the facts and circumstances giving rise to Accusation 3601 and who will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The approved practitioner shall be provided with a copy of the board's Accusation and decision. A record of this notification must be provided to the board upon request. . . .

[¶] . . . [¶]

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[Condition] 22. Community Service Program

Within sixty (60) days of the effective date of this decision, respondent shall submit to the board or its designee, for prior approval, a community service program in which respondent shall provide free health-care related services on a regular basis to a community or charitable facility or agency for at least sixty (60) hours per year for the first three (3) years of probation. Within thirty (30) days of board approval thereof, respondent shall submit documentation to the board demonstrating commencement of the community service program. A record of this notification must be provided to the board upon request. Respondent shall report on progress with the community service program in the quarterly reports. Failure to timely submit, commence, or comply with the program shall be considered a violation of probation.

[¶] . . . [¶]

[Condition] 24. Leaving State of California

During the period of suspension, respondent shall not leave California for any period exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess of the (10) days during suspension shall be considered a violation of probation. Moreover, any absence from California during the period of suspension exceeding ten (10) days shall toll the suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days respondent is absent from California. During any such period of tolling of suspension, respondent must nonetheless comply with all terms and conditions of probation.

Respondent must notify the board in writing within ten (10) days of departure, and must further notify the board in writing within ten (10) days of return. The failure to provide such notification(s) shall constitute a violation of probation. Upon such departure and return, respondent shall not resume the practice of pharmacy until notified by the board that the period of suspension has been satisfactorily completed.

Bases for Discipline

4. In the Accusation, Complainant alleged that Respondent's license is subject to disciplinary action in that he engaged in an act of dishonesty, fraud and/or deceit by making false representations to the Board and by signing a document that falsely represented certain facts to the Board.

5. Complainant established, by clear and convincing evidence, that Respondent engaged in an act of dishonesty, fraud and/or deceit in that on September 6, 2012, he signed a

license renewal application under penalty of perjury which falsely stated that he had successfully completed the hours of continuing education required for renewal. In fact, Respondent had taken the courses prior to the reporting period. During the Board's audit of Respondent's continuing education hours, Respondent made additional false representations to the Board regarding his continuing education hours.

Bases to Revoke Probation

6. In the Petition to Revoke Probation, Complainant alleged several bases for revocation of probation based on Respondent's failure to comply with the terms and conditions of probation. Samim Samari, an Investigator employed by the Board, testified credibly at the hearing. She was assigned to monitor Respondent as a probationer. All of the bases for revocation of probation were established as follows:

(a) Complainant established, by clear and convincing evidence, that Respondent violated probationary condition number 4 of the Prior Decision in that Respondent failed to appear for an office conference as scheduled on June 22, 2012, and did not contact the Board regarding his absence.

(b) Complainant established, by clear and convincing evidence, that Respondent violated probationary condition number 7 of the Prior Decision in that he failed to timely submit notification to the Board of his pharmacist-in-charge's acknowledgment that he had read the decision in case number 3601, and the terms and conditions imposed thereby. Such notification was due by July 7, 2012, but was not received by the Board until October 5, 2012.

(c) Complainant established, by clear and convincing evidence, that Respondent violated probationary condition number 17 of the Prior Decision in that he failed to undergo a psychiatric evaluation within thirty days of the effective date of probation and did not timely submit evidence of completion of such an evaluation.

(d) Complainant established, by clear and convincing evidence, that Respondent violated probationary condition number 18 of the Prior Decision in that Respondent failed to timely enroll and participate in the Pharmacists Recovery Program (PRP), as he did not contact PRP until December 13, 2012, which was six months after the effective date of probation. Additionally, on January 2, 2013, and January 7, 2013, Respondent failed to report daily to PRP, and on January 3, 2013, January 10, 2013, and March 9, 2013, Respondent failed to test, as scheduled.

(e) Complainant established, by clear and convincing evidence, that Respondent violated probationary condition number 19 of the Prior Decision in that on January 2, 2013, and January 7, 2013, Respondent failed to report daily to confirm whether a test was required, and on January 3, 2013, January 10, 2013, and March 9, 2013, Respondent failed to test, as scheduled.

(f) Complainant established, by clear and convincing evidence, that Respondent violated probationary condition number 20 of the Prior Decision in that Respondent tested positive for alcohol on March 11, 2013.

(g) Complainant established, by clear and convincing evidence, that Respondent violated probationary condition number 21 of the Prior Decision in that Respondent failed to timely establish, or notify the Board that he had established, a practitioner to coordinate and monitor his prescriptions.

(h) Complainant established, by clear and convincing evidence, that Respondent violated probationary condition number 22 of the Prior Decision in that Respondent failed to timely complete the procedures for submitting a community service program for approval by the Board or timely commence working with a Board-approved community service program.

(i) Complainant established, by clear and convincing evidence, that Respondent violated probationary condition number 24 of the Prior Decision in that Respondent traveled outside of California in excess of ten days during his period of license suspension and failed to timely notify the Board in writing of his absence from California within ten days of his departure or return.

Rehabilitation and Mitigation

7. Rose Safran (Safran), testified credibly on behalf of Respondent. She is licensed in California as a Marriage and Family Therapist and specializes in addiction. Safran has been a recovering addict with 28 years of sobriety. She opened an in-hospital day treatment program and has been a facilitator for an addiction peer-counseling group since 1991. Safran met Respondent when he was participating in the Promises Recovery Program (Promises.) Promises is a residential substance abuse treatment program with a specific track for health care professionals. At Promises, participants spend sixty days under the supervision of Promises' staff, and participate in individual and group therapy with other addicts who are health care professionals. Respondent entered the Promises program after he relapsed on March 11, 2013. His sobriety date is March 18, 2013. Respondent completed the Promises program in May 2013. For over a year, Respondent has consistently participated in Safran's Health Care Professionals Peer Support Group for licensees who are dealing with substance abuse issues. Participants are part of a Board diversion program overseen by Maximus, a contractor of the State of California. The group meets twice a week, for one and a half hours per session. After eighteen months to two years of participation, Safran generally recommends a decrease in attendance at group meetings to once weekly. In her group, participants discuss issues with recovery, jobs and the twelve-step program. Participants are required to remain active in Safran's group until they are out of diversion. In Respondent's case, she expects that he will remain in her group for three to five years. Respondent has submitted to the increased level of testing required by Maximus. His drug test results demonstrate that Respondent has been free of all substances for more than fourteen months. On behalf of Respondent, Safran sends a monthly report to his case manager at Maximus. When he first began his probation, Respondent was still in active

addiction and was “very overwhelmed.” He is now “an addict in full, sustained remission” and is remorseful for his actions while in active addiction. Respondent follows a twelve-step program, has a sponsor, and has re-directed his social life so that his friends now consist of other group members who are in recovery and he no longer associates with his former friends with whom he had used alcohol or drugs. Respondent has demonstrated to Safran that he is willing to do whatever is asked of him with enthusiasm and he is now feeling positive about his life and his recovery. Respondent has been in full compliance with all probationary terms since completing the Promises program and would not pose a danger to the public if he were permitted to work as a pharmacist, even given the fact that he owns his own pharmacy. At his own pharmacy, Respondent has another pharmacist-in-charge who is responsible for monitoring Respondent in the workplace.

8. Respondent testified credibly and was respectful of the proceedings. He readily admits that “all of the allegations in the pleading are true” and he does not deny them. Respondent enrolled in Promises in March 2013, and successfully completed the program. All of the violations alleged in the instant Accusation and Petition to Revoke Probation occurred prior to his enrollment at Promises. Before enrolling in Promises, he “was a mess,” was in a state of depression and “did not know about addiction at that time.” He has been in full compliance with his conditions of probation and realizes that he is in “a life or death situation.” It is “not about a job.” Respondent wants “to be well physically, mentally, emotionally and spiritually.” Because he acknowledges that he is an addict, he recognizes that maintaining his recovery requires “extreme vigilance” on his part. Respondent participates in Safran’s Health Care Professionals Support Group from 9:30 a.m. until 11 a.m. two days per week. In addition, he attends six to eight Alcoholics Anonymous (AA) or Narcotics Anonymous (NA) meetings each week. Respondent is the secretary at one meeting and brings in speakers to talk about recovery. He provides “literature service” at another meeting where he talks about the AA magazine. Respondent calls his clinical case manager at Maximus each month. Respondent realized that his “environment needed to change” and his “social life is now different.” He no longer maintains friendships with those with whom he “drank and partied socially prior to recovery.” He wants “the sobriety and comfort in life” that those in recovery demonstrate and he “will continue on that path.” Respondent volunteers at a soccer club in the area as a certified referee. He provides support for his elderly parents, his two divorced sisters, and his five nieces and nephews. His license was suspended for 60 days in 2012 pursuant to probationary condition 1. Due to his unauthorized absence from the State of California, Respondent’s license was suspended again from February 2013 through November 2013. The suspension has been lifted, but Respondent is not currently working. He now feels confident in his ability to work as a pharmacist, even at the pharmacy he owns.

9. Five individuals provided character references in support of Respondent’s continued licensure. These letters were admitted as administrative hearsay.¹ Each writer emphasized Respondent’s commitment to his recovery and the transformation he has made.

¹ The term “administrative hearsay” is a shorthand reference to the provisions of Government Code section 11513, subdivision (d), to the effect that hearsay evidence that is

Costs of Investigation and Prosecution

10. Complainant submitted evidence of costs of investigation and prosecution of this matter, totaling \$1,930. This includes costs for the Accusation, as well as the Petition to Revoke Probation. Complainant attempted to "cull out" those costs related to the Accusation, from those costs related to probation violations (for which costs are not awarded.) Since there is one cause for discipline and nine violations of probation, Complainant seeks one-tenth of the total amount, which is \$193. That amount is reasonable.

LEGAL CONCLUSIONS

1. Cause exists to revoke or suspend Respondent's Pharmacist License, pursuant to Business and Professions Code section 4301, subdivisions (f) and (g), for unprofessional conduct in that Respondent engaged in an act of dishonesty, fraud or deceit by making false representations to the Board and by signing a document that falsely represented certain facts to the Board, as set forth in Factual Findings 4, 5 and 8.

2. Cause exists to revoke Respondent's probation and reimpose the order of revocation of Respondent's Pharmacist License, in that Respondent failed to comply with Probation Term Number 4 (Interview with Board), as set forth in Factual Findings 3, 6 and 8.

3. Cause exists to revoke Respondent's probation and reimpose the order of revocation of Respondent's Pharmacist License, in that Respondent failed to comply with Probation Term Number 7 (Notification to Pharmacist-in-charge), as set forth in Factual Findings 3, 6 and 8.

4. Cause exists to revoke Respondent's probation and reimpose the order of revocation of Respondent's Pharmacist License, in that Respondent failed to comply with Probation Term Number 17 (Mental Health Evaluation), as set forth in Factual Findings 3, 6 and 8.

5. Cause exists to revoke Respondent's probation and reimpose the order of revocation of Respondent's Pharmacist License, in that Respondent failed to comply with Probation Term Number 18 (Pharmacist Recovery Program), as set forth in Factual Findings 3, 6 and 8.

6. Cause exists to revoke Respondent's probation and reimpose the order of revocation of Respondent's Pharmacist License, in that Respondent failed to comply with Probation Term Number 19 (Random Drug Screening), as set forth in Factual Findings 3, 6 and 8.

objected to, and is not otherwise admissible, may be used to supplement or explain other evidence but may not, by itself, support a factual finding.

7. Cause exists to revoke Respondent's probation and reimpose the order of revocation of Respondent's Pharmacist License, in that Respondent failed to comply with Probation Term Number 20 (Abstain from Drug and Alcohol Use), as set forth in Factual Findings 3, 6 and 8.

8. Cause exists to revoke Respondent's probation and reimpose the order of revocation of Respondent's Pharmacist License, in that Respondent failed to comply with Probation Term Number 21 (Prescription Coordinator/Monitor), as set forth in Factual Findings 3, 6 and 8.

9. Cause exists to revoke Respondent's probation and reimpose the order of revocation of Respondent's Pharmacist License, in that Respondent failed to comply with Probation Term Number 22 (Community Service Program), as set forth in Factual Findings 3, 6 and 8.

10. Cause exists to revoke Respondent's probation and reimpose the order of revocation of Respondent's Pharmacist License, in that Respondent failed to comply with Probation Term Number 24 (Leaving State of California), as set forth in Factual Findings 3, 6 and 8.

11. Pursuant to Business and Professions Code section 125.3, Complainant is entitled to recover reasonable costs of investigation and prosecution of this matter in the amount of \$193, as set forth in Factual Finding 10.

12. Respondent readily admitted that he violated the terms of his probation and engaged in unprofessional conduct. He has taken full responsibility for his actions and has expressed sincere remorse for his conduct. Respondent has taken concrete steps to change his life, has acted to address his problems with addiction and appears fully committed to his recovery. His drug test results confirm that Respondent has been free of all substances for more than fourteen months. Rehabilitation and mitigation were established and assurance of Respondent's future compliance with probationary terms was provided. Consequently, probation in this matter with carefully structured terms and conditions is appropriate and is likely to ensure adequate public protection.

ORDER

WHEREFORE, THE FOLLOWING ORDERS are hereby made:

1. Pharmacist License No. RPH 54284, issued to Serj Soukaz Markarian, is hereby revoked. However, the revocation is stayed and Respondent is placed on probation for five years on the following terms and conditions:

1. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

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

- 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.

2. 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.

3. 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.

4. Cooperate with Board Staff

Respondent shall cooperate with the board's inspection program and with the board's monitoring and investigation of respondent's compliance with the terms

and conditions of his probation. Failure to cooperate shall be considered a violation of probation.

5. Continuing Education

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

6. Notice to Employers

During the period of probation, respondent shall notify all present and prospective employers of the decision in case number 4645 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause his or her direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and owner to report to the board in writing acknowledging that the listed individual(s) has/have read the decision in case number 4645, and terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity licensed by the board of the terms and conditions of the decision in case number 4645 in advance of the respondent commencing work at each licensed entity. A record of this notification must be provided to the board upon request.

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment by or through a pharmacy employment service, respondent shall cause his direct supervisor with the pharmacy employment service to report to the board in writing acknowledging that he or she has read the decision in case number 4645 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary, relief or pharmacy management service as a pharmacist or

any position for which a pharmacist license is a requirement or criterion for employment, whether the respondent is an employee, independent contractor or volunteer.

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

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

8. Reimbursement of Board Costs

As a condition precedent to successful completion of probation, respondent shall pay to the board its costs of investigation and prosecution in the amount of \$193, within 90 days of the effective date of this Decision.

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

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

9. Probation Monitoring Costs

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

10. Status of License

Respondent shall, at all times while on probation, maintain an active, current license with the board, including any period during which suspension or probation is tolled. Failure to maintain an active, current license shall be considered a violation of probation.

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

11. License Surrender While on Probation/Suspension

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

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

12. Notification of a Change in Name, Residence Address, Mailing Address or Employment

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

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

13. Tolling of Probation

Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. During any such period of tolling of probation, respondent must nonetheless comply with all terms and conditions of probation.

Should respondent, regardless of residency, for any reason (including vacation) cease practicing as a pharmacist for a minimum of 40 hours per calendar month in California, respondent must notify the board in writing within ten (10) days of the cessation of practice, and must further notify the board in writing within ten (10)

days of the resumption of practice. Any failure to provide such notification(s) shall be considered a violation of probation.

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

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

14. Violation of Probation

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

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

15. Completion of Probation

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

16. Mental Health Examination

Within thirty (30) days of the effective date of this decision, and on a periodic basis as may be required by the board or its designee, respondent shall undergo, at his or her own expense, psychiatric evaluation(s) by a board-appointed or board-approved licensed mental health practitioner. The approved evaluator shall be provided with a copy of the board's Accusation and Petition to Probation and this

Decision. Respondent shall sign a release authorizing the evaluator to furnish the board with a current diagnosis and a written report regarding the respondent's judgment and ability to function independently as a pharmacist with safety to the public. Respondent shall comply with all the recommendations of the evaluator if directed by the board or its designee.

If the evaluator recommends, and the board or its designee directs, respondent shall undergo psychotherapy. Within thirty (30) days of notification by the board that a recommendation for psychotherapy has been accepted, respondent shall submit to the board or its designee, for prior approval, the name and qualification of a licensed mental health practitioner of respondent's choice. Within thirty (30) days of approval thereof by the board, respondent shall submit documentation to the board demonstrating the commencement of psychotherapy with the approved licensed mental health practitioner. Should respondent, for any reason, cease treatment with the approved licensed mental health practitioner, respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment therewith, submit the name of a replacement licensed mental health practitioner of respondent's choice to the board for its prior approval. Within thirty (30) days of approval thereof, respondent shall submit documentation to the board demonstrating the commencement of psychotherapy with the approved replacement. Failure to comply with any requirement or deadline stated by this paragraph shall be considered a violation of probation.

Upon approval of the initial or any subsequent licensed mental health practitioner, respondent shall undergo and continue treatment with that therapist, at respondent's own expense, until the therapist recommends in writing to the board, and the board or its designee agrees by way of a written notification to respondent, that no further psychotherapy is necessary. Upon receipt of such recommendation from the treating therapist, and before determining whether to accept or reject said recommendation, the board or its designee may require respondent to undergo, at respondent's expense, a mental health evaluation by a separate board-appointed or board-approved evaluator. If the approved evaluator recommends that respondent continue psychotherapy, the board or its designee may require respondent to continue psychotherapy.

Psychotherapy shall be at least once a week unless otherwise approved by the board. Respondent shall provide the therapist with a copy of the board's Accusation and Petition to Revoke Probation and this Decision no later than the first therapy session. Respondent shall take all necessary steps to ensure that the treating therapist submits written quarterly reports to the board concerning respondent's fitness to practice, progress in treatment, and other such information as may be required by the board or its designee.

If at any time the approved evaluator or therapist determines that respondent is unable to practice safely or independently as a pharmacist, the licensed mental

health practitioner shall notify the board immediately by telephone and follow up by written letter within three (3) working days. Upon notification from the board or its designee of this determination, respondent shall be automatically suspended and shall not resume practice until notified by the board that practice may be resumed.

17. Pharmacists Recovery Program (PRP)

Within thirty (30) days of the effective date of this decision, respondent shall contact the Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll, successfully participate in, and complete the treatment contract and any subsequent addendums as recommended and provided by the PRP and as approved by the board or its designee. The costs for PRP participation shall be borne by the respondent.

If respondent is currently enrolled in the PRP, said participation is now mandatory and as of the effective date of this decision is no longer considered a self-referral under Business and Professions Code section 4362(c)(2). Respondent shall successfully participate in and complete his or her current contract and any subsequent addendums with the PRP.

Failure to timely contact or enroll in the PRP, or successfully participate in and complete the treatment contract and/or any addendums, shall be considered a violation of probation.

Probation shall be automatically extended until respondent successfully completes the PRP. Any person terminated from the PRP program shall be automatically suspended by the board. Respondent may not resume the practice of pharmacy until notified by the board in writing.

Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall result in the automatic suspension of practice by respondent and shall be considered a violation of probation. Respondent may not resume the practice of pharmacy until notified by the board in writing.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or

dispensing of dangerous drugs and controlled substances. Respondent shall not resume practice until notified by the board.

During suspension, respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board.

Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed premises in which he holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not timely paid to the PRP shall constitute a violation for probation. The board will collect unpaid administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

18. Random Drug Screening

Respondent, at his own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug screening program as directed by the board or its designee. Respondent may be required to participate in testing for the entire probation period and the frequency of testing will be determined by the board or its designee. At all times, respondent shall fully cooperate with the board or its designee, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its designee may direct. Failure to timely submit to testing as directed shall be considered a violation of probation. Upon request of the board or its designee, respondent shall provide documentation from a licensed practitioner that the prescription for a detected drug was legitimately issued and is a necessary part of the treatment of the respondent. Failure to timely provide such documentation shall be considered a violation of probation. Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall be considered a violation of probation and shall result in the automatic suspension of practice of pharmacy by respondent. Respondent may not resume the practice of pharmacy until notified by the board in writing.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any

other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances. Respondent shall not resume practice until notified by the board.

During suspension, respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board.

Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed premises in which he holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

19. Abstain from Drugs and Alcohol Use

Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the board or its designee, respondent shall provide documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of the treatment of the respondent. Failure to timely provide such documentation shall be considered a violation of probation. Respondent shall ensure that he is not in the same physical location as individuals who are using illicit substances even if respondent is not personally ingesting the drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia not supported by the documentation timely provided, and/or any physical proximity to persons using illicit substances, shall be considered a violation of probation.

20. Prescription Coordination and Monitoring of Prescription Use

Within thirty (30) days of the effective date of this decision, respondent shall submit to the board, for its prior approval, the name and qualifications of a single physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice, who shall be aware of the facts and circumstances giving rise to the

Accusation and the Petition to Revoke Probation in Case No. 4645 and who will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The approved practitioner shall be provided with a copy of the board's accusation and petition to revoke probation and this decision. A record of this notification must be provided to the board upon request. Respondent shall sign a release authorizing the practitioner to communicate with the board about respondent's treatment(s). The coordinating physician, nurse practitioner, physician assistant, or psychiatrist shall report to the board on a quarterly basis for the duration of probation regarding respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances. The board may require that the single coordinating physician, nurse practitioner, physician assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine. Should respondent, for any reason, cease supervision by the approved practitioner, respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice to the board or its designee for its prior approval. Failure to timely submit the selected practitioner or replacement practitioner to the board for approval, or to ensure the required reporting thereby on the quarterly reports, shall be considered a violation of probation.

If at any time an approved practitioner determines that respondent is unable to practice safely or independently as a pharmacist, the practitioner shall notify the board immediately by telephone and follow up by written letter within three (3) working days. Upon notification from the board or its designee of this determination, respondent shall be automatically suspended and shall not resume practice until notified by the board that practice may be resumed.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances. Respondent shall not resume practice until notified by the board.

During suspension, respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board.

Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed premises in which he holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

21. Community Services Program

Within sixty (60) days of the effective date of this decision, respondent shall submit to the board or its designee, for prior approval, a community service program in which respondent shall provide free health-care related services on a regular basis to a community or charitable facility or agency for at least 60 hours per year for the first three years of probation. Within thirty (30) days of board approval thereof, respondent shall submit documentation to the board demonstrating commencement of the community service program. A record of this notification must be provided to the board upon request. Respondent shall report on progress with the community service program in the quarterly reports. Failure to timely submit, commence, or comply with the program shall be considered a violation of probation.

22. No New Ownership of Licensed Premises

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

23. Tolling of Suspension

During the period of suspension, respondent shall not leave California for any period exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess of the (10) days during suspension shall be considered a violation of probation. Moreover, any absence from California during the period of suspension exceeding ten (10) days shall toll the suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days respondent is absent from California. During any such period of tolling of suspension, respondent must nonetheless comply with all terms and conditions of probation.

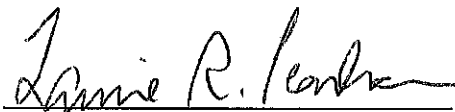
Respondent must notify the board in writing within ten (10) days of departure, and must further notify the board in writing within ten (10) days of return. The failure to provide such notification(s) shall constitute a violation of probation. Upon such departure and return, respondent shall not resume the practice of pharmacy until notified by the board that the period of suspension has been satisfactorily completed.

24. Ethics Course

Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll in a course in ethics, at respondent's expense, approved in advance by the board or its designee. Failure to initiate the course during the first year of probation, and complete it within the second year of probation, is a violation of probation.

Respondent shall submit a certificate of completion to the board or its designee within five days after completing the course.

DATED: April 21, 2014



LAURIE R. PEARLMAN
Administrative Law Judge
Office of Administrative Hearings

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

11 In the Matter of the Accusation and Petition to
Revoke Probation Against,

Case No. 4645

12 **SERJ SOUKAZ MARKARIAN, AKA**
13 **SEROJ SOUKIAZIAN**
7766 N. Glenoaks Blvd.
14 Burbank, CA 91504
15 Pharmacist License No. RPH 54284

ACCUSATION AND PETITION TO
REVOKE PROBATION

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this Petition to Revoke Probation solely in her
21 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
22 Affairs.

23 2. On or about March 20, 2003, the Board of Pharmacy issued Pharmacist License
24 Number RPH 54284 to Serj Soukaz Markarian, aka Seroj Soukiazian (Respondent). The
25 Pharmacist License was in effect at all times relevant to the charges brought herein and will
26 expire on September 30, 2014, unless renewed.

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1 3. In a disciplinary action entitled "In the Matter of Accusation Against Serj Soukaz
2 Markarian," Case No. 3601, the Board of Pharmacy, issued a decision, effective June 17, 2012, in
3 which Respondent's Pharmacist License was revoked. However, the revocation was stayed and
4 Respondent's Pharmacist License was placed on probation for a period of five (5) years with
5 certain terms and conditions. A copy of that decision is attached as Exhibit "A" and is
6 incorporated by reference.

7 JURISDICTION AND STATUTORY
8 PROVISIONS FOR ACCUSATION

9 4. This Accusation is brought before the Board of Pharmacy (Board), under the
10 authority of the following laws. All section references are to the Business and Professions Code
11 unless otherwise indicated.

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

16 6. Section 4301 of the Code states, in pertinent part:

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

21 ...

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

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

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1 **COST RECOVERY**

2 7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
6 renewed or reinstated.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct: Dishonesty/False Representation)**

9 8. Respondent is subject to disciplinary action under section 4301, subdivision (f) and
10 (g), in that Respondent engaged in an act of dishonesty, fraud and/or deceit by making false
11 representations to the Board and signing a document that falsely represented certain facts to the
12 board. The circumstances are that on or about September 6, 2012, Respondent signed under
13 penalty of perjury a license renewal application which falsely stated that he had successfully
14 completed the hours of continuing education required for renewal. During the Board's audit of
15 Respondent's continuing education hours, Respondent made additional false representations to
16 the Board regarding his continuing education hours.

17 **JURISDICTION FOR PETITION TO REVOKE PROBATION**

18 9. This Petition to Revoke Probation is brought before the Board of Pharmacy (Board),
19 Department of Consumer Affairs, under Probation Term and Condition Number 15 of the
20 Decision and Order In the Matter of Accusation Against Serj Soukaz Markarian, Case No. 3601.
21 That term and condition states as follows:

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

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

1 that was stayed. Notice and opportunity to be heard are not required for those provisions stating
2 that a violation thereof may lead to automatic termination of the stay and/or revocation of the
3 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 **FIRST CAUSE TO REVOKE PROBATION**

7 **(Interview with Board)**

8 10. At all times after the effective date of Respondent’s probation, Condition 4 stated:

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

14 11. Respondent’s probation is subject to revocation because he failed to comply with
15 Probation Condition 4, referenced above. The facts and circumstances regarding this violation
16 are that Respondent failed to appear for an office conference as scheduled on June 22, 2012, and
17 did not contact the Board regarding his absence.

18 **SECOND CAUSE TO REVOKE PROBATION**

19 **(Notification to Pharmacist-in-charge)**

20 12. At all times after the effective date of Respondent’s probation, Condition 7 stated, in
21 pertinent part:

22 “During the period of probation, respondent shall notify all present and prospective
23 employers of the decision in case number 3601 and the terms, conditions and restrictions imposed
24 on respondent by the decision, as follows:

25 “Within thirty (30) days of the effective date of this decision, and within fifteen (15) days
26 of respondent undertaking any new employment, respondent shall cause his direct supervisor,
27 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent’s
28 tenure of employment) and owner to report to the board in writing acknowledging that the listed

1 individual(s) has/have read the decision in case number 3601, and terms and conditions imposed
2 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)
3 submit timely acknowledgment(s) to the board.

4 ...

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

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

12 13. Respondent's probation is subject to revocation because he failed to comply with
13 Probation Condition 7, referenced above. The facts and circumstances regarding this violation
14 are that Respondent failed to timely submit notification to the Board of the pharmacist-in-
15 charge's acknowledgement that he or she had read the decision in case number 3601, and the
16 terms and conditions imposed thereby. Such notification was not received by the Board until
17 October 5, 2012.

18 THIRD CAUSE TO REVOKE PROBATION

19 (Mental Health Evaluation)

20 14. At all times after the effective date of Respondent's probation, Condition 17 stated, in
21 pertinent part:

22 "Within thirty (30) days of the effective date of this decision, and on a periodic basis as
23 may be required by the board or its designee, respondent shall undergo, at his own expense,
24 psychiatric evaluation(s) by a board-appointed or board-approved licensed mental health
25 practitioner. The approved evaluator shall be provided with a copy of the board's Accusation and
26 decision. Respondent shall sign a release authorizing the evaluator to furnish the board with a
27 current diagnosis and a written report regarding the respondent's judgment and ability to function

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1 independently as a pharmacist with safety to the public. Respondent shall comply with all the
2 recommendations of the evaluator if directed by the board or its designee.”

3 15. Respondent’s probation is subject to revocation because he failed to comply with
4 Probation Condition 17, referenced above. The facts and circumstances regarding this violation
5 are that Respondent failed to undergo a psychiatric evaluation within thirty (30) days of the
6 effective date of probation and, to date, has not submitted evidence of completion of such an
7 evaluation.

8 **FOURTH CAUSE TO REVOKE PROBATION**

9 **(Pharmacists Recovery Program)**

10 16. At all times after the effective date of Respondent’s probation, Condition 18 stated, in
11 pertinent part:

12 “Within thirty (30) days of the effective date of this decision, respondent shall contact the
13 Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll,
14 ~~successfully participate in, and complete the treatment contract and any subsequent addendums as~~
15 recommended and provided by the PRP and as approved by the board or its designee. The costs
16 for PRP participation shall be borne by the respondent.

17 . . .

18 Failure to timely contact or enroll in the PRP, or successfully participate in and complete
19 the treatment contract and/or any addendums, shall be considered a violation of probation. . . .”

20 17. Respondent’s probation is subject to revocation because he failed to comply with
21 Probation Condition 18, referenced above. The facts and circumstances regarding this violation
22 are as follows:

23 a. Respondent failed to timely enroll and participate in the Pharmacists Recovery
24 Program (PRP), as he did not contact PRP until December 13, 2012, which was six (6) months
25 after the effective date of probation. Additionally, on January 2, 2013, and January 7, 2013,
26 Respondent failed to daily report to PRP, and on January 3, 2013, January 10, 2013, and March 9,
27 2013, Respondent failed to test as scheduled.

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1 **FIFTH CAUSE TO REVOKE PROBATION**

2 **(Random Drug Screening)**

3 18. At all times after the effective date of Respondent's probation, Condition 19 stated, in
4 pertinent part:

5 "Respondent, at his own expense, shall participate in random testing, including but not
6 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
7 screening program as directed by the board or its designee. Respondent may be required to
8 participate in testing for the entire probation period and the frequency of testing will be
9 determined by the board or its designee. At all times, respondent shall fully cooperate with the
10 board or its designee, and shall, when directed, submit to such tests and samples for the detection
11 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its
12 designee may direct. Failure to timely submit to testing as directed shall be considered a violation
13 of probation. Upon request of the board or its designee, respondent shall provide documentation
14 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
15 a necessary part of the treatment of the respondent. Failure to timely provide such documentation
16 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
17 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
18 shall be considered a violation of probation and shall result in the automatic suspension of
19 practice of pharmacy by respondent. Respondent may not resume the practice of pharmacy until
20 notified by the board in writing.

21

22 19. Respondent's probation is subject to revocation because he failed to comply with
23 Probation Condition 19, referenced above. The facts and circumstances regarding this violation
24 are that on January 2, 2013, and January 7, 2013, Respondent failed to daily report to confirm
25 whether a test was required, and on January 3, 2013, January 10, 2013, and March 9, 2013,
26 Respondent failed to test as scheduled.

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SIXTH CAUSE TO REVOKE PROBATION

(Abstain from Drug and Alcohol Use)

20. At all times after the effective date of Respondent's probation, Condition 20 stated:

"Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the board or its designee, respondent shall provide documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of the treatment of the respondent. Failure to timely provide such documentation shall be considered a violation of probation. Respondent shall ensure that he is not in the same physical location as individuals who are using illicit substances even if respondent is not personally ingesting the drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia not supported by the documentation timely provided, and/or any physical proximity to persons using illicit substances, shall be considered a violation of probation."

21. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 20, referenced above. The facts and circumstances regarding this violation are that Respondent tested positive for alcohol on March 11, 2013.

SEVENTH CAUSE TO REVOKE PROBATION

(Prescription Coordinator/Monitor)

22. At all times after the effective date of Respondent's probation, Condition 21 stated, in pertinent part:

"Within thirty (30) days of the effective date of this decision, respondent shall submit to the board, for its prior approval, the name and qualifications of a single physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice, who shall be aware of the facts and circumstances giving rise to Accusation 3601 and who will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The approved practitioner shall be provided with a copy of the board's Accusation and decision. A record of this notification must be provided to the board upon request. . . ."

1 23. Respondent's probation is subject to revocation because he failed to comply with
2 Probation Condition 21, referenced above. The facts and circumstances regarding this violation
3 are that, to date, Respondent has failed to establish and/or notify the Board that he has established
4 a practitioner to coordinate and monitor his prescriptions.

5 **EIGHTH CAUSE TO REVOKE PROBATION**

6 **(Community Service Program)**

7 24. At all times after the effective date of Respondent's probation, Condition 22 stated:

8 "Within sixty (60) days of the effective date of this decision, respondent shall submit to the
9 board or its designee, for prior approval, a community service program in which respondent shall
10 provide free health-care related services on a regular basis to a community or charitable facility or
11 agency for at least sixty (60) hours per year for the first three (3) years of probation. Within thirty
12 (30) days of board approval thereof, respondent shall submit documentation to the board
13 demonstrating commencement of the community service program. A record of this notification
14 ~~must be provided to the board upon request. Respondent shall report on progress with the~~
15 community service program in the quarterly reports. Failure to timely submit, commence, or
16 comply with the program shall be considered a violation of probation."

17 25. Respondent's probation is subject to revocation because he failed to comply with
18 Probation Condition 22, referenced above. The facts and circumstances regarding this violation
19 are that, to date, Respondent has not completed the procedures for submitting a community
20 service program for approval by the Board nor has commenced working with a Board-approved
21 community service program.

22 **NINTH CAUSE TO REVOKE PROBATION**

23 **(Leaving State of California)**

24 26. At all times after the effective date of Respondent's probation, Condition 24 stated:

25 "During the period of suspension, respondent shall not leave California for any period
26 exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess
27 of the (10) days during suspension shall be considered a violation of probation. Moreover, any
28 absence from California during the period of suspension exceeding ten (10) days shall toll the

1 suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days
2 respondent is absent from California. During any such period of tolling of suspension,
3 respondent must nonetheless comply with all terms and conditions of probation.

4 Respondent must notify the board in writing within ten (10) days of departure, and must
5 further notify the board in writing within ten (10) days of return. The failure to provide such
6 notification(s) shall constitute a violation of probation. Upon such departure and return,
7 respondent shall not resume the practice of pharmacy until notified by the board that the period of
8 suspension has been satisfactorily completed.”

9 27. Respondent’s probation is subject to revocation because he failed to comply with
10 Probation Condition 24, referenced above. The facts and circumstances regarding this violation
11 are that Respondent traveled outside the State of California in excess of ten (10) days during his
12 period of suspension and did he timely not notify the Board in writing within ten (10) days of his
13 departure or return.

14 PRAYER

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

17 1. Revoking the probation that was granted by the Board of Phamracy in Case No. 3601
18 and imposing the disciplinary order that was stayed, thereby revoking Pharmacist License
19 Number RPH 54284 issued to Serj Soukaz Markarian;

20 2. Revoking or suspending Pharmacist License Number RPH 54284 issued to Serj
21 Soukaz Markarian;

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

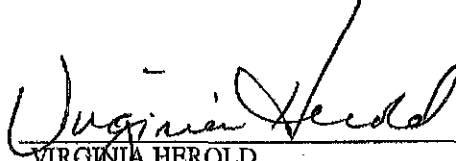
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1 3. Ordering Serj Soukaz Markarian to pay the Board of Pharmacy the reasonable costs
2 of the investigation and enforcement of this case with respect to the Accusation, pursuant to
3 Business and Professions Code section 125.3

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

5
6 DATED: _____

9/19/13



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

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Exhibit A

Decision and Order

Board of Pharmacy Case No. 3601

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

In the Matter of the Accusation Against:

SERJ SOUKAZ MARKARIAN
7766 N. Glenoaks Blvd.
Burbank, CA 91504

Pharmacist License No. RPH 54284

Respondent.

Case No. 3601

OAH No. L-2011090609

DECISION AND ORDER

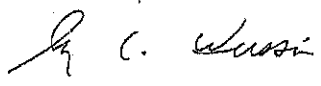
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on June 7, 2012.

It is so ORDERED on May 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
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 WILLIAM D. GARDNER
Deputy Attorney General
4 State Bar No. 244817
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2114
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

11 In the Matter of the Accusation Against:

Case No. 3601

12 **SERJ SOUKAZ MARKARIAN**
7766 N. Glenoaks Blvd.
13 **Burbank, CA 91504**
Pharmacist License No. RPH 54284
14

OAH No. L-2011090609
STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 Respondent.
16

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

19 **PARTIES**

20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
21 She brought this action solely in her official capacity and is represented in this matter by Kamala
22 D. Harris, Attorney General of the State of California, by William D. Gardner, Deputy Attorney
23 General.

24 2. Respondent Serj Soukaz Markarian (Respondent) is represented in this proceeding by
25 attorney Herbert L. Weinberg, whose address is: 1800 Century Park East, 8th Floor, Los
26 Angeles, CA 90067.

27 3. On or about March 20, 2003, the Board of Pharmacy issued Pharmacist License No.
28 RPH 54284 to Serj Soukaz Markarian (Respondent). The Pharmacist License was in full force

1 and effect at all times relevant to the charges brought in Accusation No. 3601 and will expire on
2 September 30, 2012, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 3601 was filed before the Board of Pharmacy (Board), Department of
5 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
6 statutorily required documents were properly served on Respondent on June 15, 2011.
7 Respondent timely filed his Notice of Defense contesting the Accusation.

8 5. A copy of Accusation No. 3601 is attached as exhibit A and incorporated herein by
9 reference.

10 **ADVISEMENT AND WAIVERS**

11 6. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. 3601. Respondent has also carefully read, fully
13 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
14 Order.

15 7. Respondent is fully aware of his legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
17 his own expense; the right to confront and cross-examine the witnesses against him; the right to
18 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
19 the attendance of witnesses and the production of documents; the right to reconsideration and
20 court review of an adverse decision; and all other rights accorded by the California
21 Administrative Procedure Act and other applicable laws.

22 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
23 every right set forth above.

24 **CULPABILITY**

25 9. Respondent admits the truth of each and every charge and allegation in Accusation
26 No. 3601.

27 10. Respondent agrees that his Pharmacist License is subject to discipline and he agrees
28 to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

1 CONTINGENCY

2 11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
3 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
4 communicate directly with the Board regarding this stipulation and settlement, without notice to
5 or participation by Respondent or his counsel. By signing the stipulation, Respondent
6 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation
7 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
8 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
9 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
10 and the Board shall not be disqualified from further action by having considered this matter.

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

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

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

23 DISCIPLINARY ORDER

24 IT IS HEREBY ORDERED that Pharmacist License No. RPH 54284 issued to Respondent
25 Serj Soukaz Markarian (Respondent) is revoked. However, the revocation is stayed and
26 Respondent is placed on probation for five (5) years on the following terms and conditions.

27 ///

28 ///

1 **1. Suspension**

2 As part of probation, respondent is suspended from the practice of pharmacy for sixty (60)
3 days beginning the effective date of this decision.

4 During suspension, respondent shall not enter any pharmacy area or any portion of the
5 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
6 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
7 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
8 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
9 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
10 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
11 and devices or controlled substances.

12 Respondent shall not engage in any activity that requires the professional judgment of a
13 pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy.
14 Respondent shall not perform the duties of a pharmacy technician or a designated representative
15 for any entity licensed by the board.

16 Subject to the above restrictions, respondent may continue to own or hold an interest in any
17 licensed premises in which he holds an interest at the time this decision becomes effective unless
18 otherwise specified in this order.

19 Failure to comply with this suspension shall be considered a violation of probation.

20 **2. Obey All Laws**

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

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

- 24 • an arrest or issuance of a criminal complaint for violation of any provision of the
25 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
26 substances laws;
- 27 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
28 criminal complaint, information or indictment;

- 1 • a conviction of any crime;
- 2 • discipline, citation, or other administrative action filed by any state or federal agency
- 3 which involves respondent's pharmacist license or which is related to the practice of
- 4 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
- 5 for any drug, device or controlled substance.

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

7 **3. Report to the Board**

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

16 **4. Interview with the Board**

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

22 **5. Cooperate with Board Staff**

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

26 **6. Continuing Education**

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

1 7. **Notice to Employers**

2 During the period of probation, respondent shall notify all present and prospective
3 employers of the decision in case number 3601 and the terms, conditions and restrictions imposed
4 on respondent by the decision, as follows:

5 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
6 respondent undertaking any new employment, respondent shall cause his direct supervisor,
7 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
8 tenure of employment) and owner to report to the board in writing acknowledging that the listed
9 individual(s) has/have read the decision in case number 3601, and terms and conditions imposed
10 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)
11 submit timely acknowledgment(s) to the board.

12 If respondent works for or is employed by or through a pharmacy employment service,
13 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
14 licensed by the board of the terms and conditions of the decision in case number 3601 in advance
15 of the respondent commencing work at each licensed entity. A record of this notification must be
16 provided to the board upon request.

17 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
18 (15) days of respondent undertaking any new employment by or through a pharmacy employment
19 service, respondent shall cause his direct supervisor with the pharmacy employment service to
20 report to the board in writing acknowledging that he has read the decision in case number 3601
21 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
22 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

26 "Employment" within the meaning of this provision shall include any full-time, part-
27 time, temporary, relief or pharmacy management service as a pharmacist or any position for

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1 which a pharmacist license is a requirement or criterion for employment, whether the
2 respondent is an employee, independent contractor or volunteer.

3 **8. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
4 **Designated Representative-in-Charge, or Serving as a Consultant**

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

9 **9. Reimbursement of Board Costs**

10 As a condition precedent to successful completion of probation, respondent shall pay to the
11 board its costs of investigation and prosecution in the amount of \$5,657.50. Respondent shall
12 make said payments in accordance with a payment plan to be determined by the Board

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

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

18 **10. Probation Monitoring Costs**

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

23 **11. Status of License**

24 Respondent shall, at all times while on probation, maintain an active, current license with
25 the board, including any period during which suspension or probation is tolled. Failure to
26 maintain an active, current license shall be considered a violation of probation.

27 If respondent's license expires or is cancelled by operation of law or otherwise at any time
28 during the period of probation, including any extensions thereof due to tolling or otherwise, upon

1 renewal or reapplication respondent's license shall be subject to all terms and conditions of this
2 probation not previously satisfied.

3 **12. License Surrender While on Probation/Suspension**

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

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

17 **13. Notification of a Change in Name, Residence Address, Mailing Address or**
18 **Employment**

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

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

26 **14. Tolling of Probation**

27 Except during periods of suspension, respondent shall, at all times while on probation, be
28 employed as a pharmacist in California for a minimum of forty (40) hours per calendar month.

1 Any month during which this minimum is not met shall toll the period of probation, i.e., the
2 period of probation shall be extended by one month for each month during which this minimum is
3 not met. During any such period of tolling of probation, respondent must nonetheless comply
4 with all terms and conditions of probation.

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

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

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

19 **15. Violation of Probation**

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

25 If respondent violates probation in any respect, the board, after giving respondent notice
26 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
27 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
28 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If

1 a petition to revoke probation or an accusation is filed against respondent during probation, the
2 board shall have continuing jurisdiction and the period of probation shall be automatically
3 extended until the petition to revoke probation or accusation is heard and decided.

4 **16. Completion of Probation**

5 Upon written notice by the board or its designee indicating successful completion of
6 probation, respondent's license will be fully restored.

7 **17. Mental Health Examination**

8 Within thirty (30) days of the effective date of this decision, and on a periodic basis as may
9 be required by the board or its designee, respondent shall undergo, at his own expense,
10 psychiatric evaluation(s) by a board-appointed or board-approved licensed mental health
11 practitioner. The approved evaluator shall be provided with a copy of the board's Accusation and
12 decision. Respondent shall sign a release authorizing the evaluator to furnish the board with a
13 current diagnosis and a written report regarding the respondent's judgment and ability to function
14 independently as a pharmacist with safety to the public. Respondent shall comply with all the
15 recommendations of the evaluator if directed by the board or its designee.

16 If the evaluator recommends, and the board or its designee directs, respondent shall
17 undergo psychotherapy. Within thirty (30) days of notification by the board that a
18 recommendation for psychotherapy has been accepted, respondent shall submit to the board or its
19 designee, for prior approval, the name and qualification of a licensed mental health practitioner of
20 respondent's choice. Within thirty (30) days of approval thereof by the board, respondent shall
21 submit documentation to the board demonstrating the commencement of psychotherapy with the
22 approved licensed mental health practitioner. Should respondent, for any reason, cease treatment
23 with the approved licensed mental health practitioner, respondent shall notify the board
24 immediately and, within thirty (30) days of ceasing treatment therewith, submit the name of a
25 replacement licensed mental health practitioner of respondent's choice to the board for its prior
26 approval. Within thirty (30) days of approval thereof, respondent shall submit documentation to
27 the board demonstrating the commencement of psychotherapy with the approved replacement.

28 ///

1 Failure to comply with any requirement or deadline stated by this paragraph shall be considered a
2 violation of probation.

3 Upon approval of the initial or any subsequent licensed mental health practitioner,
4 respondent shall undergo and continue treatment with that therapist, at respondent's own expense,
5 until the therapist recommends in writing to the board, and the board or its designee agrees by
6 way of a written notification to respondent, that no further psychotherapy is necessary. Upon
7 receipt of such recommendation from the treating therapist, and before determining whether to
8 accept or reject said recommendation, the board or its designee may require respondent to
9 undergo, at respondent's expense, a mental health evaluation by a separate board-appointed or
10 board-approved evaluator. If the approved evaluator recommends that respondent continue
11 psychotherapy, the board or its designee may require respondent to continue psychotherapy.

12 Psychotherapy shall be at least once a week unless otherwise approved by the board.
13 Respondent shall provide the therapist with a copy of the board's Accusation and decision no
14 later than the first therapy session. Respondent shall take all necessary steps to ensure that the
15 treating therapist submits written quarterly reports to the board concerning respondent's fitness to
16 practice, progress in treatment, and other such information as may be required by the board or its
17 designee.

18 If at any time the approved evaluator or therapist determines that respondent is unable to
19 practice safely or independently as a pharmacist, the licensed mental health practitioner shall
20 notify the board immediately by telephone and follow up by written letter within three (3)
21 working days. Upon notification from the board or its designee of this determination, respondent
22 shall be automatically suspended and shall not resume practice until notified by the board that
23 practice may be resumed.

24 **18. Pharmacists Recovery Program (PRP)**

25 Within thirty (30) days of the effective date of this decision, respondent shall contact the
26 Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll,
27 successfully participate in, and complete the treatment contract and any subsequent addendums as
28 ///

1 recommended and provided by the PRP and as approved by the board or its designee. The costs
2 for PRP participation shall be borne by the respondent.

3 If respondent is currently enrolled in the PRP, said participation is now mandatory and as of
4 the effective date of this decision is no longer considered a self-referral under Business and
5 Professions Code section 4362(c)(2). Respondent shall successfully participate in and complete
6 his current contract and any subsequent addendums with the PRP.

7 Failure to timely contact or enroll in the PRP, or successfully participate in and complete
8 the treatment contract and/or any addendums, shall be considered a violation of probation.

9 Probation shall be automatically extended until respondent successfully completes the PRP.
10 Any person terminated from the PRP program shall be automatically suspended by the board.
11 Respondent may not resume the practice of pharmacy until notified by the board in writing.

12 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
13 licensed practitioner as part of a documented medical treatment shall result in the automatic
14 suspension of practice by respondent and shall be considered a violation of probation.
15 Respondent may not resume the practice of pharmacy until notified by the board in writing.

16 During suspension, respondent shall not enter any pharmacy area or any portion of the
17 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
18 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
19 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
20 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
21 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
22 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
23 and controlled substances. Respondent shall not resume practice until notified by the board.

24 During suspension, respondent shall not engage in any activity that requires the
25 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
26 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
27 designated representative for any entity licensed by the board.

28 ///

1 Subject to the above restrictions, respondent may continue to own or hold an interest in any
2 licensed premises in which he holds an interest at the time this decision becomes effective unless
3 otherwise specified in this order.

4 Failure to comply with this suspension shall be considered a violation of probation.

5 Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not
6 timely paid to the PRP shall constitute a violation for probation. The board will collect unpaid
7 administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

8 **19. Random Drug Screening**

9 Respondent, at his own expense, shall participate in random testing, including but not
10 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
11 screening program as directed by the board or its designee. Respondent may be required to
12 participate in testing for the entire probation period and the frequency of testing will be
13 determined by the board or its designee. At all times, respondent shall fully cooperate with the
14 board or its designee, and shall, when directed, submit to such tests and samples for the detection
15 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its
16 designee may direct. Failure to timely submit to testing as directed shall be considered a violation
17 of probation. Upon request of the board or its designee, respondent shall provide documentation
18 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
19 a necessary part of the treatment of the respondent. Failure to timely provide such documentation
20 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
21 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
22 shall be considered a violation of probation and shall result in the automatic suspension of
23 practice of pharmacy by respondent. Respondent may not resume the practice of pharmacy until
24 notified by the board in writing.

25 During suspension, respondent shall not enter any pharmacy area or any portion of the
26 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
27 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
28 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act

1 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
2 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
3 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
4 and controlled substances. Respondent shall not resume practice until notified by the board.

5 During suspension, respondent shall not engage in any activity that requires the
6 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
7 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
8 designated representative for any entity licensed by the board.

9 Subject to the above restrictions, respondent may continue to own or hold an interest in any
10 licensed premises in which he holds an interest at the time this decision becomes effective unless
11 otherwise specified in this order.

12 Failure to comply with this suspension shall be considered a violation of probation.

13 **20. Abstain from Drugs and Alcohol Use**

14 Respondent shall completely abstain from the possession or use of alcohol, controlled
15 substances, dangerous drugs and their associated paraphernalia except when the drugs are
16 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon
17 request of the board or its designee, respondent shall provide documentation from the licensed
18 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the
19 treatment of the respondent. Failure to timely provide such documentation shall be considered a
20 violation of probation. Respondent shall ensure that he is not in the same physical location as
21 individuals who are using illicit substances even if respondent is not personally ingesting the
22 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
23 not supported by the documentation timely provided, and/or any physical proximity to persons
24 using illicit substances, shall be considered a violation of probation.

25 **21. Prescription Coordination and Monitoring of Prescription Use**

26 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
27 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
28 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the facts and

1 circumstances giving rise to Accusation 3601 and who will coordinate and monitor any
2 prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs.
3 The approved practitioner shall be provided with a copy of the board's Accusation and decision.
4 A record of this notification must be provided to the board upon request. Respondent shall sign a
5 release authorizing the practitioner to communicate with the board about respondent's
6 treatment(s). The coordinating physician, nurse practitioner, physician assistant, or psychiatrist
7 shall report to the board on a quarterly basis for the duration of probation regarding respondent's
8 compliance with this condition. If any substances considered addictive have been prescribed, the
9 report shall identify a program for the time limited use of any such substances. The board may
10 require that the single coordinating physician, nurse practitioner, physician assistant or
11 psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine.
12 Should respondent, for any reason, cease supervision by the approved practitioner, respondent
13 shall notify the board immediately and, within thirty (30) days of ceasing treatment, submit the
14 name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist of
15 respondent's choice to the board or its designee for its prior approval. Failure to timely submit
16 the selected practitioner or replacement practitioner to the board for approval, or to ensure the
17 required reporting thereby on the quarterly reports, shall be considered a violation of probation.

18 If at any time an approved practitioner determines that respondent is unable to practice
19 safely or independently as a pharmacist, the practitioner shall notify the board immediately by
20 telephone and follow up by written letter within three (3) working days. Upon notification from
21 the board or its designee of this determination, respondent shall be automatically suspended and
22 shall not resume practice until notified by the board that practice may be resumed.

23 During suspension, respondent shall not enter any pharmacy area or any portion of the
24 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
25 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
26 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
27 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
28 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the

1 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
2 and controlled substances. Respondent shall not resume practice until notified by the board.

3 During suspension, respondent shall not engage in any activity that requires the
4 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
5 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
6 designated representative for any entity licensed by the board.

7 Subject to the above restrictions, respondent may continue to own or hold an interest in any
8 licensed premises in which he holds an interest at the time this decision becomes effective unless
9 otherwise specified in this order.

10 Failure to comply with this suspension shall be considered a violation of probation.

11 **22. Community Services Program**

12 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
13 board or its designee, for prior approval, a community service program in which respondent shall
14 provide free health-care related services on a regular basis to a community or charitable facility or
15 agency for at least sixty (60) hours per year for the first three (3) years of probation. Within thirty
16 (30) days of board approval thereof, respondent shall submit documentation to the board
17 demonstrating commencement of the community service program. A record of this notification
18 must be provided to the board upon request. Respondent shall report on progress with the
19 community service program in the quarterly reports. Failure to timely submit, commence, or
20 comply with the program shall be considered a violation of probation.

21 **23. No New Ownership of Licensed Premises**

22 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
23 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
24 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or
25 has any legal or beneficial interest in, or serves as a manager, administrator, member, officer,
26 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
27 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold

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1 that interest, but only to the extent of that position or interest as of the effective date of this
2 decision. Violation of this restriction shall be considered a violation of probation.

3 **24. Tolling of Suspension**

4 During the period of suspension, respondent shall not leave California for any period
5 exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess
6 of the (10) days during suspension shall be considered a violation of probation. Moreover, any
7 absence from California during the period of suspension exceeding ten (10) days shall toll the
8 suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days
9 respondent is absent from California. During any such period of tolling of suspension,
10 respondent must nonetheless comply with all terms and conditions of probation.

11 Respondent must notify the board in writing within ten (10) days of departure, and must
12 further notify the board in writing within ten (10) days of return. The failure to provide such
13 notification(s) shall constitute a violation of probation. Upon such departure and return,
14 respondent shall not resume the practice of pharmacy until notified by the board that the period of
15 suspension has been satisfactorily completed.

16 **25. Ethics Course**

17 Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll
18 in a course in ethics, at respondent's expense, approved in advance by the board or its designee.
19 Failure to initiate the course during the first year of probation, and complete it within the second
20 year of probation, is a violation of probation.

21 Respondent shall submit a certificate of completion to the board or its designee within five
22 days after completing the course.

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1 ACCEPTANCE

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

7
8 DATED: 2/28/12


SERJ SOUKAZ MARKARIAN
Respondent

10 I have read and fully discussed with Respondent Serj Soukz Markarian the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.

13 DATED: 2/29/12


Herbert L. Weinberg
Attorney for Respondent

16 ENDORSEMENT

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

19
20 Dated:

Respectfully submitted,

21 KAMALA D. HARRIS
Attorney General of California
22 KAREN B. CHAPPELLE
Supervising Deputy Attorney General

23
24 WILLIAM D. GARDNER
25 Deputy Attorney General
26 Attorneys for Complainant

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ACCEPTANCE

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

DATED: _____
SERJ SOUKAZ MARKARIAN
Respondent

I have read and fully discussed with Respondent Serj Soukaz Markarian the terms and conditions and other matters, contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: _____
Herbert L. Weinberg
Attorney for Respondent

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: 2/29/12

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
KAREN B. CHAPPELLE
Supervising Deputy Attorney General



WILLIAM D. GARDNER
Deputy Attorney General
Attorneys for Complainant

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KAMALA D. HARRIS
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General
KIMBERLEY J. BAKER-GUILLEMET
Deputy Attorney General
State Bar No. 242920
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2533
Facsimile: (213) 897-2804
Attorneys for Complainant

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

In the Matter of the Accusation Against:
SERJ SOUKAZ MARKARIAN
7766 N. Glenoaks Blvd.
Burbank, CA 91504
Pharmacist License No. RPH 54284

Respondent.

Case No. 3601

ACCUSATION

Complainant alleges:

PARTIES

1. Virginia K. Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the California State Board of Pharmacy.
2. On or about March 20, 2003, the Board of Pharmacy issued Pharmacist License Number RPH 54284 to Serj Soukaz Markarian (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2012, unless renewed.

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JURISDICTION

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

STATUTORY PROVISIONS

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

10 5. Section 490 of the Code provides, in pertinent part, that a board may suspend or
11 revoke a license on the ground that the licensee has been convicted of a crime substantially
12 related to the qualifications, functions, or duties of the business or profession for which the
13 license was issued.

14 6. Section 4022 of the Code states:

15 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in
16 humans or animals, and includes the following:

17 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without
18 prescription," "Rx only," or words of similar import.

19 "(b) Any device that bears the statement: "Caution: federal law restricts this device to sale
20 by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in with
21 the designation of the practitioner licensed to use or order use of the device.

22 "(c) Any other drug or device that by federal or state law can be lawfully dispensed only
23 on prescription or furnished pursuant to Section 4006.

24 7. Section 4060 of the Code states:

25 "No person shall possess any controlled substance, except that furnished to a person upon
26 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
27 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
28 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a

1 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
2 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
3 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
4 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
5 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
6 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
7 labeled with the name and address of the supplier or producer.

8 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a
9 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs
10 and devices."

11 8. Section 4301 of the Code states:

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

15

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

19

20 "(I) The conviction of a crime substantially related to the qualifications, functions, and
21 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
22 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
23 substances or of a violation of the statutes of this state regulating controlled substances or
24 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
25 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
26 The board may inquire into the circumstances surrounding the commission of the crime, in order
27 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
28 or dangerous drugs, to determine if the conviction is of an offense substantially related to the

1 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
2 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
3 of this provision. The board may take action when the time for appeal has elapsed, or the
4 judgment of conviction has been affirmed on appeal or when an order granting probation is made
5 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
6 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
7 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
8 indictment.

9 REGULATORY PROVISIONS

10 9. California Code of Regulations, title 16, section 1770, states:

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

17 COST RECOVERY

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

22 DRUGS

23 11. Pregabalin, also known by the brand name Lyrica, is a Schedule V, non-narcotic
24 controlled substance under Health and Safety Code section 11058, and is classified as a
25 dangerous drug pursuant to Business and Professions Code section 4022.

26 12. Eszopiclone, also known by the brand name Lunesta, is a Schedule IV, non-narcotic
27 controlled substance under Health and Safety Code section 11057, and is classified as a
28 dangerous drug pursuant to Business and Professions Code section 4022.

1 13. Tadalafil, also known by the brand name Cialis, is not a scheduled drug, but is
2 classified as a dangerous drug pursuant to Business and Professions Code section 4022.

3 14. Celecoxib, also known by the brand name Celebrex, is not a scheduled drug, but is
4 classified as a dangerous drug pursuant to Business and Professions Code section 4022.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Substantially Related Convictions)**

7 15. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision
8 (I), of the Code, in conjunction with California Code of Regulation, title 16, section 1770, in that
9 Respondent was convicted of a crime substantially related to the qualifications, functions or
10 duties of a licensed pharmacist. Specifically, on or about September 2, 2008, after pleading nolo
11 contendere, Respondent was convicted of one misdemeanor count of violating Penal Code
12 Section 602.5(B) [entering dwelling without consent] in the criminal proceeding entitled *The*
13 *People of the State of California v. Serj Soukaz Markarian* (Super. Ct. Los Angeles County, 2008,
14 No. 7PY07737). Respondent was placed on probation for 36 months and was ordered to pay a
15 fine.

16 16. The circumstances are that on or about August 17, 2007, while working as a
17 pharmacist at CVS Pharmacy, Respondent was observed concealing the following
18 pharmaceuticals in his bag: Cialis 20 mg, Lyrica 50 mg, Lunesta 3mg and Celebrex 100 mg. A
19 CVS store manager waited for Respondent to exit the store at closing time and contacted him in
20 the parking lot. The store manager checked Respondent's bags and located five (5) bottles of
21 pharmaceuticals that had been taken from the pharmacy without permission and had not been
22 paid for nor prescribed to Respondent.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct: Dishonest Act)**

25 17. Respondent is subject to disciplinary action under section 4301, subdivision (f) of the
26 Code in that he committed an act involving moral turpitude, dishonesty, fraud, deceit or
27 corruption. Complainant refers to, and by this reference incorporates, the allegations set forth in
28 paragraphs 15 and 16, as though set forth fully.

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THIRD CAUSE FOR DISCIPLINE

(Possession of Controlled Substance Without a Prescription)

18. Respondent is subject to disciplinary action under section 4060 of the Code, in that he possessed controlled substances that were not furnished to him upon prescription of a physician. Complainant refers to, and by this reference incorporates, the allegations set forth in paragraphs 15 and 16, as though set forth fully.

FOURTH CAUSE FOR DISCIPLINE

(Administer/Furnish Controlled Substance to Self)

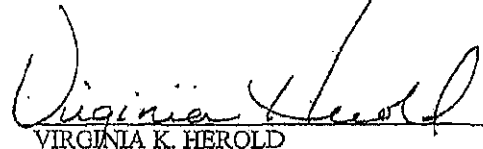
19. Respondent is subject to disciplinary action under section 11170 of the Health and Safety Code in that he prescribed, administered or furnished a controlled substance to himself. Complainant refers to, and by this reference incorporates, the allegations set forth in paragraphs 15 and 16, as though set forth fully.

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 or suspending Pharmacist License Number RPH 54284, issued to Serj Soukaz Markarian;
2. Ordering Serj Soukaz Markarian 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: 6/6/11



VIRGINIA K. HEROLD
Executive Officer
California State Board of Pharmacy
State of California
Complainant

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