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6		RE THE PHARMACY
7		CONSUMER AFFAIRS CALIFORNIA
8		
9	In the Matter of the Accusation Against:	Case No. 5117
10		
11	ROCHESTER ENTERPRISES INC.	DEFAULT DECISION AND ORDER
12	2061 Business Center Drive, Ste. 204 Irvine, CA 92612	
13	Wholesale Permit No. WLS 5966	[Gov. Code, §11520]
14	ROGER SERNA	
15	12560 HASTER St., Spc 84 Garden Grove, CA 92840	
16	Designated Representative License No.	
17	EXC 21937	
18		
19	Respondents.	
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21	FINDING	S OF FACT
22	1. On or about September 28, 2014, Cc	omplainant Virginia K. Herold, in her official
23	capacity as the Executive Officer of the Board of	f Pharmacy, Department of Consumer Affairs,
24	filed Accusation No. 5117 against Rochester Ent	terprises Inc. (Respondent) before the Board of
25	Pharmacy. (Accusation attached as Exhibit A.)	
26	2. On or about April 27, 2012, the Boar	rd of Pharmacy (Board) issued Wholesale Permit
27	No. WLS 5966 to Respondent Rochester Enterpr	rises, Inc. (Respondent Rochester Enterprises.)
28	The Wholesale Permit expired on April 1, 2013,	and has not been renewed. This lapse in
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licensure, however pursuant to Business and Professions Code sections 118(b) and 4300.1, does not deprive the Board of its authority to institute or continue this disciplinary proceeding.

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3 On or about October 3, 2012, the Board issued Designated Representative License
 Number EXC 21937 to Roger Serna (Respondent Roger Serna.) The Designated Representative
 License expired on October 1, 2013 and has not been renewed. This lapse in licensure, however
 pursuant to Business and Professions Code sections 118(b) and 4300.1, does not deprive the
 Board of its authority to institute or continue this disciplinary proceeding.

9 4. On or about October 7, 2014, Respondent Rochester Enterprises was served by
 9 Certified and First Class Mail copies of the Accusation No. 5117, Statement to Respondent,
 10 Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections
 11 11507.5, 11507.6, and 11507.7) at Respondent Rochester Enterprises' address of record which,
 12 pursuant to Business and Professions Code section 4100, is required to be reported and
 13 maintained with the Board. Respondent Rochester Enterprises' address of record was and is 2061
 14 Business Center Drive, Ste. 204, Irvine, CA 92612.

5. On or about October 7, 2014, Respondent Roger Serna was served by Certified and
 First Class Mail copies of the Accusation No. 5117, Statement to Respondent, Notice of Defense,
 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
 and 11507.7) at Respondent Roger Serna's address of record which, pursuant to Business and
 Professions Code section 4100, is required to be reported and maintained with the Board.
 Respondent Rochester Enterprises' address of record was and is 12560 Haster St., Spc. 84,
 Garden Grove, CA 92840.

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

7. On or about October 20, 2014, the aforementioned documents served on Respondent
Rochester Enterprises were returned by the U.S. Postal Service marked "No Forwarding
Address." The aforementioned documents served on Respondent Roger Serna via certified mail
were returned as "unclaimed" by the U.S. Postal Service.

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1	8. Government Code section 11506 states, in pertinent part:
2	(c) The respondent shall be entitled to a hearing on the merits if the respondent
3	files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall
4	constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.
5	9. Respondents failed to file a Notice of Defense within 15 days after service upon them
6	of the Accusation, and therefore waived their right to a hearing on the merits of Accusation No.
7	5117.
8	10. California Government Code section 11520 states, in pertinent part:
9	(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions
10	or upon other evidence and affidavits may be used as evidence without any notice to respondent.
11	respondent.
12	11. Pursuant to its authority under Government Code section 11520, the Board finds
13	Respondents are in default. The Board will take action without further hearing and, based on the
14	relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
15	taking official notice of all the investigatory reports, exhibits and statements contained therein on
16	file at the Board's offices regarding the allegations contained in Accusation No. 5117, finds that
17	the charges and allegations in Accusation No. 5117, are separately and severally, found to be true
18	and correct by clear and convincing evidence.
19	12. Taking official notice of its own internal records, pursuant to Business and
20	Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
21	and Enforcement is \$13,660.25 as of October 31, 2014.
22	DETERMINATION OF ISSUES
23	1. Based on the foregoing findings of fact, Respondent Rochester Enterprises Inc. has
24	subjected its Wholesale Permit No. WLS 5966 to discipline and Respondent Roger Serna has
25	subjected his Designated Representative License No. EXC 21937 to discipline.
26	2. The agency has jurisdiction to adjudicate this case by default.
27	3. The Board of Pharmacy is authorized to revoke Respondent Rochester Enterprises'
28	Wholesale Permit and Respondent Roger Serna's Designated Representative License based upon
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	DEFAULT DECISION AND ORDER

the following violations alleged in the Accusation which are supported by the evidence contained
 in the Default Decision Evidence Packet in this case:

a. Respondents are subject to disciplinary action under Code section 4301(o), for
violating Business and Professions Code section 4160(a), in that they purchased and sold
dangerous drugs, including drugs used for the treatment of HIV and AIDS drugs while unlicensed
as a wholesaler.

b. Respondents are subject to disciplinary action under Code section 4301(o), for
violating Business and Professions Code section 4169(a)(1), in that they purchased dangerous
drugs, including drugs used for the treatment of HIV and AIDS drugs from an unlicensed entity,
SD Trading.

c. Respondents are subject to disciplinary action under Code sections 4301(o), for
violating Code sections 4081(a) and (b) in that they failed to keep records of the acquisition and
disposition of dangerous drugs open for inspection or keep a current inventory as defined by
California Code of Regulations, title 16, section 1718 for the dangerous drugs, including drugs
used for the treatment of AIDS and HIV, they sold to pharmacies.

d. Respondents are subject to disciplinary action under Code section 4301(o), for
violating Code sections 4105(a) and (c), in that Respondents failed to retain records for the
dangerous drugs, including drugs used for the treatment of HIV and AIDS purchased and sold.

e. Respondents are subject to disciplinary action under Code section 4301(q), for
subverting an investigation of the Board in that they made misrepresentations to the Board
Inspector about their access to records, failed to respond to inquiries for records and produced
redacted copies of records.

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f. Respondents are subject to disciplinary action under Code section 4301(f), in that they committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption.

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g. Respondents are subject to disciplinary action under Code section 4301 for
unprofessional conduct in that they engaged in the activities described above.

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ORDER

2	IT IS SO ORDERED that Wholesale Permit No. WLS 5966, heretofore issued to
3	Respondent Rochester Enterprises Inc. and Designated Representative License No. EXC 21937,
4	heretofore issued to Respondent Roger Serna are revoked.
5	IT IS FURTHER ORDERED that pursuant to Code section 4307, since discipline is
6	imposed on Wholesaler Permit Number WLS 5966, issued to Rochester Enterprises Inc. and
7	Roger Serna while acting as the manager, administrator, owner, member, officer, director,

associate, or partner of Rochester Enterprises Inc. had knowledge of or knowingly participated in any conduct for which Wholesaler Permit Number WLS 5966 was revoked, suspended or placed on probation, Roger Serna shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee until and if Wholesaler Permit Number WLS 5966 is reinstated.

IT IS FURTHER ORDERED that pursuant to Code section 4307, since discipline is imposed on Designated Representative License No. EXC 21937 issued to Roger Serna, Roger Serna shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee until and if Designated Representative License Number EXC 21937 is reinstated.

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2	Pursuant to Government Code section 11520, subdivision (c), Respondents may serve a
3	written motion requesting that the Decision be vacated and stating the grounds relied on within
4	seven (7) days after service of the Decision on Respondent. The agency in its discretion may
5	vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.
6	This decision shall become effective on January 9, 2015.
. 7	It is so ORDERED on December 10, 2014.
8	BOARD OF PHARMACY
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
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11	& C. Wasi
12	BySTAN C. WEISSER
13	Board President
14	
15	70974402.DOC/DOJ Matter ID:SD2014706770
16	Attachment: Exhibit A: Accusation
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	DEFAULT DECISION AND ORDER

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Exhibit A

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Accusation

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1	KAMALA D. HARRIS Attorney General of California
2	LINDA K. SCHNEIDER Supervising Deputy Attorney General DESIREE I. KELLOGG
4	Deputy Attorney General State Bar No. 126461
ļ	110 West "A" Street, Suite 1100
5	San Diego, CA 92101 P.O. Box 85266
6 7	San Diego, CA 92186-5266 Telephone: (619) 645-2996 Facsimile: (619) 645-2061
8	Attorneys for Complainant
	BEFORE THE
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
10	STATE OF CALIFORNIA
11	In the Matter of the Accusation Against: Case No. 5117
12	ROCHESTER ENTERPRISES INC.
13	2061 Business Center Drive, Ste. 204Irvine, CA 92612A C C U S A T I O N
14	Wholesale Permit No. WLS 5966
15	ROGER SERNA
16	12560 Haster St., Spc. 84
17	Garden Grove, CA 92840
18	Designated Representative License No. EXC 21937
19	Respondents.
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22	Complainant alleges:
23	PARTIES
24	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
25	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
26	2. On or about April 27, 2012, the Board of Pharmacy issued Wholesale Permit Number
27	WLS 5966 to Rochester Enterprises Inc. (Respondent Rochester Enterprises). The Wholesale
28	Permit expired on April 1, 2013, and has not been renewed.
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	Accusation

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1	3. On or about October 3, 2012, the Board of Pharmacy issued Designated	
2	Representative License Number EXC 21937 to Roger Serna (Respondent Roger Serna). The	
3	Designated Representative License expired on October 1, 2013, and has not been renewed.	
4	JURISDICTION	
5	4. This Accusation is brought before the Board of Pharmacy (Board), Department of	
6	Consumer Affairs, under the authority of the following laws. All section references are to the	
7	Business and Professions Code unless otherwise indicated.	
8	5. Section 4011 of the Code provides that the Board shall administer and enforce both	
9	the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances	
10	Act [Health & Safety Code, § 11000 et seq.].	
11	6. Section 4300 (a) of the Code provides that every license issued by the Board may be	
12	suspended or revoked.	
13	7. Section 4300.1 of the Code states:	
14	The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the	
15	placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any	
16	investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.	
17	8. Section 4307(a) of the Code states that:	
18	Any person who has been denied a license or whose license has been revoked or	
19	is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a manager, administrator, owner member, officer,	
20	director, associate, or partner of any partnership, corporation, firm, or association whose application for a license has been denied or revoked, is under suspension or	
21	has been placed on probation, and while acting as the manger, administrator, owner, member, officer, director, associate, or partner had knowledge or knowingly	
22	participated in any conduct for which the license was denied, revoked, suspended, or placed on probation, shall be prohibited from serving as a manger, administrator,	
23	owner, member, officer, director, associate, or partner of a licensee as follows:	
24	(1) Where a probationary license is issued or where an existing license is placed on probation, this prohibition shall remain in effect for a period not to exceed five	
25	years.	
26	(2) Where the license is denied or revoked, the prohibition shall continue until the license is issued or reinstated.	
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Accusation

1	STATUTORY AND REGULATORY PROVISIONS
2	9. Section 4022 of the Code states:
3	Dangerous drug" or "dangerous device" means any drug or device unsafe for
4	self-use in humans or animals, and includes the following:
5	(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.
6	(b) Any device that bears the statement: "Caution: federal law restricts this
7	device to sale by or on the order of a," "Rx only," or words of similar import,
8	the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.
9	(c) Any other drug or device that by federal or state law can be lawfully
10	dispensed only on prescription or furnished pursuant to Section 4006.
11	10. Section 4043 of the Code, in pertinent part, defines "wholesaler" to mean and include
12	"a person who acts as a wholesale merchant, broker, jobber, customs broker, reverse distributor,
13	agent, or a nonresident wholesaler, who sells for resale, or negotiates for distribution, or takes
14	possession of, any drug or device included in Section 4022."
15	11. Section 4053 (a) of the Code states:
16	Notwithstanding Section 4051, the board may issue a license as a designated representative to provide sufficient and qualified supervision in a wholesaler or
17	veterinary food-animal drug retailer. The designated representative shall protect the public health and safety in the handling, storage, and shipment of dangerous drugs
18	and dangerous devices in the wholesaler or veterinary food-animal drug retailer.
19	12. Section 4081 of the Code states:
20	(a) All records of manufacture and of sale, acquisition, or disposition of
21	dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at
22	least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer,
23	physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution,
24	or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption under Division 2 (commencing with Section
25	1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock
26	of dangerous drugs or dangerous devices.
27	(b) The owner, officer, and partner of any pharmacy, wholesaler, or veterinary
28	food-animal drug retailer shall be jointly responsible, with the
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1	pharmacist-in-charge or representative-in-charge, for maintaining the records and inventory described in this section.	
2	13. Section 4105 of the Code states in pertinent part that:	
3	(a) All records or other documentation of the acquisition and disposition of	
4	dangerous drugs and dangerous devices by any entity licensed by the board shall be retained on the licensed premises in a readily retrievable form."	
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6 7	(c) The records required by this section shall be retained on the licensed premises for a period of three years from the date of making.	
8	14. Section 4160 of the Code provides, in pertinent part, that a wholesaler license shall be	
9	required for a person or entity to act as a wholesaler, that every wholesaler shall be supervised or	·
10	managed by a Designated Representative in Charge, and that the Designated Representative in	
11	Charge shall be responsible for the wholesaler's compliance with state and federal laws.	
12	15. Section 4163 (a) of the Code states:	
13	(a) A manufacturer, wholesaler, repackager, or pharmacy may not furnish a dangerous drug or dangerous device to an unauthorized person.	
14	16. Section 4169 of the Code states in pertinent part:	
15	(a) A person or entity may not do any of the following:	
16	(1) Purchase, trade, sell, or transfer dangerous drugs or dangerous devices at	
17	wholesale with a person or entity that is not licensed with the board as a wholesaler or pharmacy.	
18	· · · · · · · · · · · · · · · · · · ·	
19	(5) Fail to maintain records of the acquisition or disposition of dangerous	
20	drugs or dangerous devices for at least three years.	
21		
22	17. Section 4301 of the Code states in pertinent part:	
23	The board shall take action against any holder of a license who is guilty of	ŀ
24	unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but	
25	is not limited to, any of the following:	.
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(f) The commission of any act involving moral turpitude, dishonesty, fraud, 1 deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not. 2 . . . 3 4 (o) Violating or attempting to violate, directly or indirectly, or assisting in or 5 abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing 6 pharmacy, including regulations established by the board or by any other state or federal regulatory agency. 7 8 9 (q) Engaging in any conduct that subverts or attempts to subvert an investigation of the board. 1011 12 18. California Code of Regulations, title 16, section 1718 states in pertinent part that 13 "Current Inventory' as used in Sections 4081 and 4332 of the Business and Professions Code 14 shall be considered to include complete accountability for all dangerous drugs handled by every 15 licensee enumerated in Sections 4081 and 4332. 16 COST RECOVERY 17 19. Section 125.3 of the Code provides, in pertinent part, that the Board may request the 18 administrative law judge to direct a licentiate found to have committed a violation or violations of 19 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and 20 enforcement of the case. 21 DRUGS 22 Drugs utilized to treat Human Immunodeficiency Virus (HIV) and Acquired Immune 20. 23 Deficiency Syndrome (AIDS) including, abilify, actos, aptripla, baraclude, combivar, complera, 24 epzicom, gleevec, intelence, isentress, kaletra, norvir, prevista, reyataz, truvada, viramune, viread 25 and ziagen. These are dangerous drugs pursuant to Business and Professions Code section 4022 26 and possess a high resale and street dollar value. 27 285

FACTUAL ALLEGATIONS

21. On or about April 10, and May 18, 2012, AIDS Healthcare Foundation, a nonprofit organization whose mission is to provide cutting edge medicine and advocacy for HIV and AIDS patients, regardless of ability to pay, filed a complaint with the Board alleging that Respondent Rochester Enterprises was engaged in a scheme whereby it knowingly and willfully offered HIV and AIDS patients cash and in-kind inducements (i.e., gift cards, rent and utility subsidies) to transfer their prescriptions for AIDS drugs, many of which were paid for by Medicare and Medicaid to TLC Express Pharmacy and Beverly Hills Medical Plaza Pharmacy.

The Board investigation revealed that Respondents operated a "Confidential Patient 22. 9 Services" (CPS) program, whereby they solicited AIDS and HIV patients to transfer their 10 prescriptions for drugs to their pharmacies. Respondent Rochester Enterprises' website stated 11 that it used "[trained] case/social workers [to] give personal care to members" and requested 12 patients' full medical records as part of an agreement to purchase "healthcare products or 13 services" from Respondent Rochester Enterprises. Respondents also represented on their website 14 that Respondent Rochester Enterprises "functioned like a normal pharmacy" and each prescription 15 was "processed by Rochester Enterprises' Physicians and Pharmacist." 16

17 23. From October 3, 2012 through April 1, 2013, Respondent Roger Serna was the
18 Designated Representative-in-Charge (DRIC) of Respondent Rochester Enterprises.

24. At all times mentioned herein, ST Trading was an entity that was not licensed by the
Board, had no premises or telephone numbers and was non-existent. From October 17, 2012
through May 14, 2013, Respondents purchased dangerous drugs, including drugs used for the
treatment of AIDS and HIV as described in paragraph 20, above, at the cost of \$3,062,122.78
from SD Trading. On October 10, 2012 and March 27, 2013, Respondents returned a portion of
those drugs to ST Trading.

25 25. From February 23, 2012 through March 28, 2012, Respondents sold dangerous drugs,
including drugs used for the treatment of HIV and AIDS to Beverly Hills Medical Plaza Pharmacy
when Respondent Rochester Enterprises was unlicensed by the Board.

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26. From April 2, 2012 through April 26, 2012, Respondents sold dangerous drugs, including drugs used for the treatment of AIDS and HIV to TLC Express Pharmacy when Respondent Rochester Enterprises was unlicensed by the Board.

27. From February 23, 2012 through March 13, 2013, Respondents did not retain all records reflecting the sales of dangerous drugs, including drugs used for the treatment of HIV and AIDS to Beverly Hills Medical Plaza Pharmacy, TLC Express Pharmacy and Olympia Pharmacy.

From April 27, 2012 through April 1, 2013, Respondents did not maintain a current 28. inventory of dangerous drugs, including drugs used for the treatment of HIV and AIDS.

29, During the Board's investigation, Respondents sought records from the pharmacies it 9 sold drugs to, redacted those invoices to eliminate any information from the pharmacies and 10 represented to the Board inspector that these were Respondents' own records when they were 11 actually the records from the pharmacies (i.e., they passed off records of the pharmacies as their 12 13 own), claimed that they did not have access to records even though they had confirmed in writing that they had access to their records and failed to respond to inquiries from the Board inspector. 14 30. Respondent Rochester Enterprises terminated business operations without notifying 15 the Board and without filing a Notice of Discontinuation of Business. 16

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FIRST CAUSE FOR DISCIPLINE

(Unlicensed Activity)

31. Respondents are subject to disciplinary action under Code section 4301(o), for 19 violating Business and Professions Code section 4160(a), in that they purchased and sold 20dangerous drugs, including drugs used for the treatment of HIV and AIDS drugs while unlicensed 21as a wholesaler, as set forth in paragraphs 21 through 30 above, which are incorporated herein by 22 reference. 23

SECOND CAUSE FOR DISCIPLINE

24 25

32.

(Purchasing Drugs from an Unlicensed Entity) Respondents are subject to disciplinary action under Code section 4301(0), for

26 violating Business and Professions Code section 4169(a)(1), in that they purchased dangerous 27

drugs, including drugs used for the treatment of HIV and AIDS drugs from an unlicensed entity, 28

1	SD Trading, as set forth in paragraphs 21 through 30 above, which are incorporated herein by
2	reference.
3	THIRD CAUSE FOR DISCIPLINE
4	(Failure to Keep Records of Acquisition and Disposition Open for Inspection and to Keep
5	Current Inventory)
6	33. Respondents are subject to disciplinary action under Code sections 4301(0), for
7	violating Code sections 4081(a) and (b) in that they failed to keep records of the acquisition and
8	disposition of dangerous drugs open for inspection or keep a current inventory as defined by
9	California Code of Regulations, title 16, section 1718 for the dangerous drugs, including drugs
10	used for the treatment of AIDS and HIV, they sold to pharmacies, as set forth in paragraphs 21
11	through 30, which are incorporated herein by reference.
12	FOURTH CAUSE FOR DISCIPLINE
13	(Failure to Retain Records of Dangerous Drugs on Licensed Premises)
-14	34. Respondents are subject to disciplinary action under Code section 4301(o), for
15	violating Code sections 4105(a) and (c), in that Respondents failed to retain records for the
16	dangerous drugs, including drugs used for the treatment of HIV and AIDS purchased and sold, as
17	set forth in paragraphs 21 through 30, which are incorporated herein by reference.
18	FIFTH CAUSE FOR DISCIPLINE
19	(Subverting an Investigation)
20	35. Respondents are subject to disciplinary action under Code section 4301(q), for
21	subverting an investigation of the Board in that they made micrepresentations to the Board
22	Inspector about their access to records, failed to respond to inquiries for records and produced
23	redacted copies of records, as set forth in paragraphs 21 through 30, which are incorporated herein
24	by reference.
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	Accusation

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1	SIXTH CAUSE FOR DISCIPLINE
2	(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)
3	36. Respondents are subject to disciplinary action under Code section 4301(f), in that they
4	committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption, as set forth in
5	paragraphs 21 through 30, which are incorporated herein by reference.
6	
7	SEVENTH CAUSE FOR DISCIPLINE
8	(Unprofessional Conduct)
9	37. Respondents are subject to disciplinary action under Code section 4301 for
10	unprofessional conduct in that they engaged in the activities described in paragraphs 21 through
11	30 above, which are incorporated herein by reference.
12	OTHER MATTERS
13	38. Pursuant to Code section 4307, if discipline is imposed on Wholesaler Permit
14	Number WLS 5966, issued to Rochester Enterprises Inc., and Roger Serna while acting as the
15	manager, administrator, owner, member, officer, director, associate, or partner of Rochester
16	Enterprises Inc. had knowledge of or knowingly participated in any conduct for which
17	Wholesaler Permit Number WLS 5966 was revoked, suspended or placed on probation, Roger
18	Serna shall be prohibited from serving as a manager, administrator, owner, member, officer,
19	director, associate, or partner of a licensee for five years if Wholesaler Permit Number WLS
20	5966 is placed on probation or until Wholesaler Permit Number WLS 5966 is reinstated if it is
21	revoked.
22	39. Pursuant to Code section 4307, if discipline is imposed on Designated
23	Representative License No. EXC 21937 issued to Roger Serna, Roger Serna shall be prohibited
24	from serving as a manager, administrator, owner, member, officer, director, associate, or partner
25	of a licensee for five years if Designated Representative License Number EXC 21937 is placed
26	on probation or until Designated Representative License Number EXC 21937 is reinstated if it is
27	revoked.
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Accusation

1	PRAYER
2	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3	and that following the hearing, the Board of Pharmacy issue a decision:
4	1. Revoking or suspending Wholesale Permit Number WLS 5966, issued to Rochester
5	Enterprises Inc.;
6	2. Revoking or suspending Designated Representative License Number EXC 21937,
7	issued to Roger Serna;
	3. Prohibiting Roger Serna from serving as a manager, administrator, owner, member,
9	officer, director, associate, or partner of a licensee for five years if Wholesaler Permit Number
10	WLS 5966 is placed on probation or until Wholesaler Permit Number WLS 5966 is reinstated if
11	Wholesaler Permit Number WLS 5966 issued to Rochester Enterprises, Inc. is revoked;
12	4. Prohibiting Roger Serna from serving as a manager, administrator, owner, member,
13	officer, director, associate, or partner of a licensee for five years if Designated Representative
14	License Number EXC 21937 is placed on probation or until Designated Representative License
15	Number EXC 21937 is reinstated if Designated Representative License Number EXC 21937
16	issued to Roger Serna is revoked;
17	5. Ordering Rochester Enterprises Inc. and Roger Serna to pay the Board of Pharmacy
18	the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
19	Professions Code section 125.3;
20	6. Taking such other and further action as deemed necessary and proper.
21	
22	DATED: 9/28/14 Mainia Auda
23	VIRGINIA HEROLD
24	Executive Officer Board of Pharmacy
25	Department of Consumer Affairs State of California
26	Complainant SD2014706770/70832710.doc
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	Accusation

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