

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

In the Matter of the Accusation Against:

**ALGUNAS INC. DBA WOODLAND HILLS
PHARMACY, STEVEN A. LEVIN
PRESIDENT**

20631 Ventura Blvd., Ste. 305
Woodland Hills, CA 91364
STEVEN A. LEVIN, Pharmacist-in-Charge

Original Permit No. PHY 50815

STEVEN A. LEVIN
22349 Alunas Road
Woodland Hills, CA 91364

Original Pharmacist License No. RPH 46443

Respondents.

Case No. 5704

OAH No. 2017050144

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on March 12, 2018.

It is so ORDERED on February 9, 2018.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 XAVIER BECERRA
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 GILLIAN E. FRIEDMAN
Deputy Attorney General
4 State Bar No. 169207
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6294
6 Facsimile: (213) 897-2804
E-mail: Gillian.Friedman@doj.ca.gov
7 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 5704

13 **ALGUNAS INC. DBA WOODLAND**
14 **HILLS PHARMACY, STEVEN A. LEVIN**
15 **PRESIDENT**

OAH No. 2017050144

20631 Ventura Blvd., Ste. 305
14 Woodland Hills, CA 91364
STEVEN A. LEVIN, Pharmacist-in-Charge

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

16 Original Permit No. PHY 50815

17 STEVEN A. LEVIN
22349 Alguas Road
18 Woodland Hills, CA 91364

19 Original Pharmacist License No. RPH 46443

20 Respondents.

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

24 **PARTIES**

25 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy
26 (Board). She brought this action solely in her official capacity and is represented in this matter by
27 Xavier Becerra, Attorney General of the State of California, by Gillian E. Friedman, Deputy
28 Attorney General.

2. Respondent Algunas Inc dba Woodland Hills Pharmacy with Steven A. Levin as President and Respondent Steven A. Levin Pharmacist in Charge (Respondents) are represented in this proceeding by attorney Noah Jussim, whose address is: Hinshaw & Culbertson LLP, 633 West 5th Street, 47th Floor, Los Angeles, California, 90071, Tel: 213-614-7326.

3. On or about February 1, 2012, the Board of Pharmacy issued Original Permit Number PHY 50815 to Alguas Inc., doing business as Woodland Hills Pharmacy, with Steven A. Levin as the President, Pharmacist-in-Charge, and 100% shareholder (Respondent Pharmacy). The Original Permit was in full force and effect at all times relevant to the charges brought herein and will expire on February 1, 2018, unless renewed.

4. On or about August 13, 1993, the Board of Pharmacy issued Original Pharmacist License Number RPH 46443 to Steven A. Levin (Respondent Levin). The Original Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2018, unless renewed.

JURISDICTION

5. Accusation No. 5704 was filed before the Board, and is currently pending against Respondents. The Accusation and all other statutorily required documents were properly served on Respondents on February 23, 2017. Respondents timely filed their Notice of Defense contesting the Accusation. A copy of Accusation No. 5704 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondents have carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 5704. Respondents have also carefully read, fully discussed with counsel, and understand the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondents are fully aware of their legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of

1 documents; the right to reconsideration and court review of an adverse decision; and all other
2 rights accorded by the California Administrative Procedure Act and other applicable laws.

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

5 **CULPABILITY**

6 9. Respondents admit the truth of each and every charge and allegation in Accusation
7 No. 5704.

8 10. Respondents agree that Original Permit Number PHY 50815 and Original Pharmacist
9 License Number RPH 46443 are subject to discipline and they agree to be bound by the Board's
10 probationary terms as set forth in the Disciplinary Order below.

11 11. Respondents further agree that they are subject to additional discipline by the Board
12 pursuant to Business and Professions Code section 4301 subdivision (n) due to out of state
13 discipline. The circumstances are that on May 2, 2017, Respondents entered into an Agreed
14 Board Order #F-16-036 with the Texas State Board of Pharmacy whereby Respondents were
15 required to pay an administrative penalty in the sum of \$1,000 for failing to disclose in their
16 renewal of pharmacy license application the following: (a) the denial of Respondent Levin's
17 reciprocity application for licensure as a pharmacist by the Alabama State Board of Pharmacy on
18 January 25, 2015 based upon discipline by the California Board and a 1983 conviction for
19 transportation/ sale of marijuana in Long Beach, California; (b) a Consent Order with the Oregon
20 State Board of Pharmacy on April 28, 2015 following Respondent Levin's application for
21 licensure as a Pharmacist. The Consent Order required Respondent Levin to pay a fine and
22 complete three hours of continuing education due to his arrest for the transport/sale of marijuana;
23 and (c) the denial of Respondent Pharmacy's nonresident pharmacy permit on September 3, 2015
24 with the South Carolina State Board of Pharmacy due to testimony received by that board from
25 Respondent Levin relating to the compounding of pain medications.

26 12. Respondents admit the truth of each and every charge and allegation set forth in
27 paragraph 11 above.

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CONTINGENCY

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

14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

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

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

DISCIPLINARY ORDER AGAINST ALGUNAS INC

DBA WOODLAND HILLS PHARMACY

IT IS HEREBY ORDERED that Original Permit Number PHY 50815 issued to Alguas Inc., doing business as Woodland Hills Pharmacy with Steven A. Levin as the President, Pharmacist-in-Charge, and 100% shareholder (Respondent Pharmacy) is revoked. However, the revocation is stayed and Respondent Pharmacy is placed on probation for four (4) years on the

1 following terms and conditions.

2 **1. Obey All Laws**

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

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

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

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

17 **2. Report to the Board**

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

26 **3. Interview with the Board**

27 Upon receipt of reasonable prior notice, respondent owner shall appear in person for
28 interviews with the board or its designee, at such intervals and locations as are determined by the

1 board or its designee. Failure to appear for any scheduled interview without prior notification to
2 board staff, or failure to appear for two (2) or more scheduled interviews with the board or its
3 designee during the period of probation, shall be considered a violation of probation.

4 **4. Cooperate with Board Staff**

5 Respondent owner shall cooperate with the board's inspection program and with the board's
6 monitoring and investigation of respondent's compliance with the terms and conditions of their
7 probation. Failure to cooperate shall be considered a violation of probation.

8 **5. Reimbursement of Board Costs**

9 As a condition precedent to successful completion of probation, respondent owner shall
10 jointly and severally with Respondent Levin be responsible to pay to the Board its costs of
11 investigation and prosecution in the amount of \$7870.50. Costs may be paid on a payment plan
12 approved in writing by the board. Failure to pay costs by the deadline(s) as directed shall be
13 considered a violation of probation.

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

16 **6. Probation Monitoring Costs**

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

21 **7. Status of License**

22 Respondent owner shall, at all times while on probation, maintain current licensure with the
23 board. If respondent owner submits an application to the board, and the application is approved,
24 for a change of location, change of permit or change of ownership, the board shall retain
25 continuing jurisdiction over the license, and the respondent shall remain on probation as
26 determined by the board. Failure to maintain current licensure shall be considered a violation of
27 probation.

28 If respondent owner's license expires or is cancelled by operation of law or otherwise at any

1 time during the period of probation, including any extensions thereof or otherwise, upon renewal
2 or reapplication respondent owner's license shall be subject to all terms and conditions of this
3 probation not previously satisfied.

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

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

10 Upon acceptance of the surrender, respondent owner shall relinquish the premises wall and
11 renewal license to the board within ten (10) days of notification by the board that the surrender is
12 accepted. Respondent owner shall further submit a completed Discontinuance of Business form
13 according to board guidelines and shall notify the board of the records inventory transfer.

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

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

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

1 **9. Notice to Employees**

2 Respondent owner shall, upon or before the effective date of this decision, ensure that all
3 employees involved in permit operations are made aware of all the terms and conditions of
4 probation, either by posting a notice of the terms and conditions, circulating such notice, or both.
5 If the notice required by this provision is posted, it shall be posted in a prominent place and shall
6 remain posted throughout the probation period. Respondent owner shall ensure that any
7 employees hired or used after the effective date of this decision are made aware of the terms and
8 conditions of probation by posting a notice, circulating a notice, or both. Additionally,
9 respondent owner shall submit written notification to the board, within fifteen (15) days of the
10 effective date of this decision, that this term has been satisfied. Failure to submit such
11 notification to the board shall be considered a violation of probation.

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

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

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

22 **11. Posted Notice of Probation**

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

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

1 of the licensed entity.

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

3 **12. Violation of Probation**

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

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

16 **13. Completion of Probation**

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

19 **14. Consultant for Owner or Pharmacist-In-Charge**

20 If during the period of probation Respondent Levin serves as a pharmacist-in-charge,
21 Respondent Pharmacy shall retain an independent consultant at its own expense who shall be
22 responsible for reviewing pharmacy operations on a monthly basis for compliance by respondent
23 with state and federal laws and regulations governing the practice of pharmacy and for
24 compliance by respondent with the obligations of a pharmacist-in-charge. The consultant shall be
25 a pharmacist licensed by and not on probation with the board and whose name shall be submitted
26 to the board or its designee, for prior approval, within thirty (30) days of the effective date of this
27 decision. The Consultant must have compounding experience. Respondent shall not be a
28 pharmacist-in-charge at more than one pharmacy. Failure to timely retain, seek approval of, or

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1 ensure timely reporting by the consultant shall be considered a violation of probation.

2 During the period of probation, the board or its designee retains the discretion to reduce the
3 frequency of the pharmacist consultant's review of Respondent Pharmacy's operations.

4 **15. Remedial Education**

5 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
6 board or its designee, for prior approval, an appropriate program of remedial education related to
7 compounding for all pharmacy staff involved in compounding. The program of remedial
8 education shall consist of at least six (6) hours and shall be completed within six months of
9 probation at respondent's own expense. All remedial education shall be in addition to, and shall
10 not be credited toward, continuing education (CE) courses used for license renewal purposes.

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

15 Following the completion of each course, the board or its designee may require pharmacy
16 staff of the respondent, at respondent pharmacy's expense to take an approved examination to test
17 the respondent's knowledge of the course. If the pharmacy staff does not achieve a passing score
18 on the examination, this failure shall be considered a violation of probation. Any such
19 examination failure shall require respondent to take another course approved by the board in the
20 same subject area.

21 **DISCIPLINARY ORDER AGAINST PHARMACIST STEVEN A. LEVIN**

22 IT IS HEREBY ORDERED that Original Pharmacist License Number RPH 46443 to
23 Steven A. Levin (Respondent Levin) is revoked. However, the revocation is stayed and
24 Respondent Levin is placed on probation for four (4) years on the following terms and conditions.

25 **16. Obey All Laws**

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

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

- 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 Pharmacy 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.

17. 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.

18. Interview with the Board

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

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1 **19. Cooperate with Board Staff**

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

5 **20. Continuing Education**

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

8 **21. Notice to Employers**

9 During the period of probation, respondent shall notify all present and prospective
10 employers of the decision in case number 5704 and the terms, conditions and restrictions imposed
11 on respondent by the decision, as follows:

12 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
13 respondent undertaking any new employment, respondent shall cause their direct supervisor,
14 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
15 tenure of employment) and owner to report to the board in writing acknowledging that the listed
16 individual(s) has/have read the decision in case number 5704, and terms and conditions imposed
17 thereby. It shall be respondent's responsibility to ensure that their employer(s) and/or
18 supervisor(s) submit timely acknowledgment(s) to the board.

19 If respondent works for or is employed by or through a pharmacy employment service,
20 respondent must notify their direct supervisor, pharmacist-in-charge, and owner at every entity
21 licensed by the board of the terms and conditions of the decision in case number 5704 in advance
22 of the respondent commencing work at each licensed entity. A record of this notification must be
23 provided to the board upon request.

24 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
25 (15) days of respondent undertaking any new employment by or through a pharmacy employment
26 service, respondent shall cause their direct supervisor with the pharmacy employment service to
27 report to the board in writing acknowledging that they has read the decision in case number 5704
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1 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
2 that their employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

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

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

12 During the period of probation, respondent shall not supervise any intern pharmacist, be the
13 pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board
14 other than Algunas Inc., doing business as Woodland Hills Pharmacy nor serve as a consultant,
15 unless otherwise specified in this order. Assumption of any such unauthorized supervision
16 responsibilities shall be considered a violation of probation.

17 **23. Reimbursement of Board Costs**

18 As a condition precedent to successful completion of probation, Respondent Levin shall
19 pay to the board its costs of investigation and prosecution in the amount of \$7,870.50.
20 Respondent Levin shall be jointly and severally responsible for payment of costs with Respondent
21 Pharmacy. Costs may be paid on a payment plan approved in writing by the board.

22 Failure to pay costs by the deadline(s) as directed shall be considered a violation of
23 probation.

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

26 **24. Probation Monitoring Costs**

27 Respondent shall pay any costs associated with probation monitoring as determined by the
28 board each and every year of probation. Such costs shall be payable to the board on a schedule as

1 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
2 be considered a violation of probation.

3 **25. Status of License**

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

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

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

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

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

25 **27. Notification of a Change in Name, Residence Address, Mailing Address or**
26 **Employment**

27 Respondent shall notify the board in writing within ten (10) days of any change of
28 employment. Said notification shall include the reasons for leaving, the address of the new

1 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
2 shall further notify the board in writing within ten (10) days of a change in name, residence
3 address, mailing address, or phone number.

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

6 28. Tolling of Probation

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

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

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

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

26 29. Violation of Probation

27 If a respondent has not complied with any term or condition of probation, the board shall
28 have continuing jurisdiction over respondent, and probation shall automatically be extended, until

1 all terms and conditions have been satisfied or the board has taken other action as deemed
2 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
3 to impose the penalty that was stayed.

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

11 30. Completion of Probation

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

14 31. Restricted Practice

15 Respondent shall be restricted from the practice of pharmacy compounding until he has
16 satisfactorily completed a Board approved remedial compounding course (Live attendance
17 required course) and must do so within one year of the effective date. Respondent must complete
18 at least six (6) hours of compounding related courses prior to resuming compounding activities.
19 Respondent shall submit proof satisfactory to the board of compliance with this term of probation.

20 32. Community Services Program

21 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
22 board or its designee, for prior approval, a community service program in which respondent shall
23 provide free health-care related services on a regular basis to a community or charitable facility or
24 agency for at least thirty-two (32) hours per year within one year of the effective date. Within
25 thirty (30) days of board approval thereof, respondent shall submit documentation to the board
26 demonstrating commencement of the community service program. A record of this notification
27 must be provided to the board upon request. Respondent shall report on progress with the
28 community service program in the quarterly reports. Failure to timely submit, commence, or

1 comply with the program shall be considered a violation of probation.

2 **33. Remedial Education**

3 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
4 board or its designee, for prior approval, an appropriate program of remedial education related to
5 compounding. The program of remedial education shall consist of at least six (6) hours, which
6 shall be completed yearly at respondent's own expense. At least 50% of the training must be in
7 person training. All remedial education shall be in addition to, and shall not be credited toward,
8 continuing education (CE) courses used for license renewal purposes.

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

13 Following the completion of each course, the board or its designee may require the
14 respondent, at their own expense, to take an approved examination to test the respondent's
15 knowledge of the course. If the respondent does not achieve a passing score on the examination,
16 this failure shall be considered a violation of probation. Any such examination failure shall
17 require respondent to take another course approved by the board in the same subject area.

18 Respondent shall be restricted from the practice of compounding until the initial six (6)
19 hours of remedial education program has been successfully completed.

20 **34. No Ownership of Licensed Premises**

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

1 35. **Ethics Course**

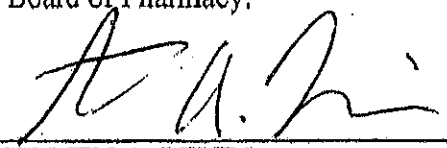
2 Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll
3 in a course in ethics, at respondent's expense, approved in advance by the board or its designee.
4 Failure to initiate the course during the first year of probation, and complete it within the second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

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

8 **ACCEPTANCE**

9 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
10 discussed it with my attorney, Noah Jussim, Esq., Hinshaw & Culbertson LLP. I understand the
11 stipulation and the effect it will have on my Pharmacy Permit. I enter into this Stipulated
12 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
13 bound by the Decision and Order of the Board of Pharmacy.

14
15 DATED: 11/3/17



STEVEN A. LEVIN,
President & Pharmacist in Charge
ALGUNAS INC DBA WOODLAND HILLS
PHARMACY, *Respondent*

16
17
18
19 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
20 discussed it with my attorney, Noah Jussim, Esq., Hinshaw & Culbertson LLP. I understand the
21 stipulation and the effect it will have on my Pharmacy Permit. I enter into this Stipulated
22 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
23 bound by the Decision and Order of the Board of Pharmacy.

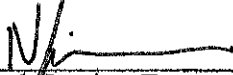
24
25 DATED: 11/3/17



STEVEN A. LEVIN
Respondent

1 I have read and fully discussed with Respondents Algunas Inc dba Woodland Hills
2 Pharmacy with Steven A. Levin as President, Pharmacist in Charge and Steven A. Levin,
3 Pharmacist the terms and conditions and other matters contained in the above Stipulated
4 Settlement and Disciplinary Order. I approve its form and content.

5 DATED: 11/3/17


Noah Jussim, Esq.
Hinsaw & Culbertson LLP
Attorneys for Respondent


8
9 **ENDORSEMENT**

10 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
11 submitted for consideration by the Board of Pharmacy.

12 Dated: 11/3/17

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General


GILLIAN E. FRIEDMAN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5704

1 XAVIER BECERRA
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 ZACHARY T. FANSELOW
Deputy Attorney General
State Bar No. 274129
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-2562
Facsimile: (213) 897-2804
6 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5704

12 **ALGUNAS INC. DBA WOODLAND**
13 **HILLS PHARMACY, STEVEN A. LEVIN**
14 **PRESIDENT**

A C C U S A T I O N

20631 Ventura Blvd., Ste. 305
15 Woodland Hills, CA 91364
16 STEVEN A. LEVIN, Pharmacist-in-Charge

17 **Original Permit No. PHY 50815**

18 **STEVEN A. LEVIN**
22349 Alguas Road
Woodland Hills, CA 91364

19 **Original Pharmacist License No. RPH 46443**

Respondents.

20 Complainant alleges:

21 **PARTIES**

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

24 2. On or about February 1, 2012, the Board of Pharmacy issued Original Permit Number
25 PHY 50815 to Alguas Inc., doing business as Woodland Hills Pharmacy, with Steven A. Levin
26 as the President, Pharmacist-in-Charge, and 100% shareholder ("Respondent Pharmacy"). The
27 Original Permit was in full force and effect at all times relevant to the charges brought herein and
28 will expire on February 1, 2018, unless renewed.

3. On or about August 13, 1993, the Board of Pharmacy issued Original Pharmacist License Number RPH 46443 to Steven A. Levin ("Respondent Levin"). The Original Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2018, unless renewed.

JURISDICTION

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

5. Section 4300 provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.

6. Section 4300.1 states:

"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 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 investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license."

STATUTORY PROVISIONS

7. Section 4022 states:

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

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

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

8. Section 4036.5 states: "Pharmacist-in-charge" means a pharmacist proposed by a pharmacy and approved by the board as the supervisor or manager responsible for ensuring the

1 pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of
2 pharmacy."

3 9. Section 4169 states, in pertinent part:

4 "(a) A person or entity shall not do any of the following:

5

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

9 10. Section 4301 states, in pertinent part:

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

13

14 "(j) The violation of any of the statutes of this state, or any other state, or of the United
15 States regulating controlled substances and dangerous drugs.

16

17 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
18 violation of or conspiring to violate any provision or term of this chapter or of the applicable
19 federal and state laws and regulations governing pharmacy, including regulations established by
20 the board or by any other state or federal regulatory agency."

21 11. Section 4307 states, in pertinent part:

22 "(a) Any person who has been denied a license or whose license has been revoked or is
23 under suspension, or who has failed to renew his or her license while it was under suspension, or
24 who has been a manager, administrator, owner, member, officer, director, associate, or partner of
25 any partnership, corporation, firm, or association whose application for a license has been denied
26 or revoked, is under suspension or has been placed on probation, and while acting as the manager,
27 administrator, owner, member, officer, director, associate, or partner had knowledge of or
28 knowingly participated in any conduct for which the license was denied, revoked, suspended, or

1 placed on probation, shall be prohibited from serving as a manager, administrator, owner,
2 member, officer, director, associate, or partner of a licensee as follows:

3 “(1) Where a probationary license is issued or where an existing license is placed on
4 probation, this prohibition shall remain in effect for a period not to exceed five years.

5 “(2) Where the license is denied or revoked, the prohibition shall continue until the license
6 is issued or reinstated.”

7 12. Section 4342 states:

8 “(a) The board may institute any action or actions as may be provided by law and that, in its
9 discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs that do not
10 conform to the standard and tests as to quality and strength, provided in the latest edition of the
11 United States Pharmacopoeia or the National Formulary, or that violate any provision of the
12 Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section 109875) of Division
13 104 of the Health and Safety Code).

14 “(b) Any knowing or willful violation of any regulation adopted pursuant to Section 4006
15 shall be subject to punishment in the same manner as is provided in Sections 4321 and 4336.”

16 13. Health and Safety Code section 111285 states: “Any drug or device is adulterated if
17 its strength differs from, or its purity or quality is below, that which it is represented to possess.”

18 **REGULATORY PROVISIONS**

19 14. California Code of Regulations, title 16, section 1735.2, subdivision (j), states: “The
20 pharmacist performing or supervising compounding is responsible for the proper preparation,
21 labeling, storage, and delivery of the compounded drug preparation.”

22 **COST RECOVERY**

23 15. Section 125.3 states, in pertinent part, that the Board may request the administrative
24 law judge to direct a licentiate found to have committed a violation or violations of the licensing
25 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
26 case.

27 ///

28 ///

1 **DANGEROUS DRUGS**

2 16. Amphotericin, brand names AmBisome, Fungizone, and Amphocin, is a dangerous
3 drug pursuant to Business and Professions Code section 4022.

4 **FACTUAL BACKGROUND**

5 17. On or about November 28, 2014, the Board received a complaint from S.C. regarding
6 her prescription for amphotericin filled at Respondent Pharmacy. In her complaint, S.C. alleged
7 that after she moved to Hawaii, it took five days for her amphotericin prescription to arrive from
8 Respondent Pharmacy and the amphotericin was shipped without ice. Within three days of taking
9 the amphotericin, S.C. alleged that she had trouble breathing. S.C. notified Respondent Levin but
10 continued to have problems properly receiving the medication. S.C. alleged that a shipment of
11 amphotericin she received in June was again shipped without ice and did not work, and another
12 shipment of amphotericin she received in November was shipped with no ice and did not work,
13 causing her to have difficulty breathing. S.C. then submitted her complaint to the Board.

14 18. On or about May 11, 2015, a Board inspector performed a complaint investigation at
15 Respondent Pharmacy. Respondent Levin was present during the investigation and told the
16 Board inspector the amphotericin solution was compounded at the pharmacy, that it was not
17 shipped with ice, but included instructions to be refrigerated upon arrival.

18 19. During the investigation at Respondent Pharmacy, the Board inspector inspected the
19 pharmacy's refrigerator and found a compounded preparation of amphotericin that was packaged
20 in a plastic opaque bottle and not protected from light. The master formula for amphotericin
21 requires that the compounded medication be refrigerated and protected from light. At the
22 conclusion of the investigation, the board inspector requested that Respondent Levin provide a
23 copy of laboratory testing results for the compounded amphotericin within fourteen days.

24 20. On or about May 18, 2015, the Board inspector spoke with Respondent Levin who
25 stated that he received laboratory test results for the compounded amphotericin, but that the
26 compounded amphotericin had only a sixty (60) percent potency. Potency range must be within
27 plus or minus ten (10) percent of the expected potency to be acceptable. Respondent Levin stated
28

1 that he would revise his policies and procedures for preparing amphotericin and obtain additional
2 laboratory results.

3 21. On or about May 28, 2015, Respondent Levin faxed the Board inspector a written
4 statement, wherein Respondent Levin admitted that after reviewing the master formula, he
5 realized he made an error in obtaining solubility by heating the amphotericin solution instead of
6 using a cold preparation process. Over the next month, Respondent Levin compounded
7 additional amphotericin, with solution potency ranging from 83.3% to 125%. Respondent Levin
8 was instructed to continue testing his samples to assure his master formula was reliable and to
9 determine appropriate beyond use dating prior to dispensing the compound.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Sale of Adulterated Dangerous Drugs)**

12 22. Respondent Pharmacy and Respondent Levin (collectively, Respondents") are subject
13 to disciplinary action under section 4301, subdivisions (j), and (o), in conjunction with section
14 4169, subdivision (a)(2), and Health and Safety Code section 111285 in that Respondents sold
15 adulterated dangerous drugs that did not conform to standards and tests as to quality and strength.
16 The potency of the dangerous drugs sold by Respondents also deviated well outside of the
17 acceptable range for the medication.

18 23. The circumstances of the violation include that between January 15, 2014, and May 8,
19 2015, Respondents dispensed at least 249 prescriptions of amphotericin that were found to be
20 adulterated and lacking in potency. During the Board's inspection of Respondent Pharmacy on
21 May 11, 2015, it was revealed that Respondents compounded amphotericin using incorrect
22 procedures, including using a hot plate instead of a cold plate and that the final amphotericin
23 preparation was packaged in a plastic polypropylene container which resulted in polymer
24 degradation and caused the amphotericin to fail to meet its stated quality and strength.
25 Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs
26 17 through 21, as though set forth fully.

27 ///

28 ///

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Failure to Properly Store and Deliver Compounded Medication)**

3 24. Respondents are subject to disciplinary action under section 4301, subdivision (o), in
4 conjunction with California Code of Regulations, title 16, section 1735.2, subdivision (j), in that
5 Respondents failed to properly store and deliver compounded amphotericin.

6 25. The circumstances of the violation include that between January 15, 2014, and May 8,
7 2015, Respondents dispensed at least 249 prescriptions of amphotericin that had not been
8 properly stored and delivered. Respondent Pharmacy's master formula for the amphotericin
9 solution required that the compounded medication be refrigerated and protected from light.
10 However, the compounded medication was not packaged in a light sensitive container and was
11 shipped without proper refrigeration. Complainant refers to, and by this reference incorporates,
12 the allegations contained in paragraphs 17 through 21, as though set forth fully.

13 **DISCIPLINARY CONSIDERATIONS**

14 26. To determine the degree of discipline, if any, to be imposed on Respondent Levin,
15 Complainant alleges the following:

16 a. On or about January 4, 2012, the Board of Pharmacy issued Respondent Levin
17 Citation Number CI 2011 50850, with a \$4,000.00 fine. Respondent Levin complied with the
18 citation and it is final. The citation alleged the following violations:

19 b. Respondent Levin, during a pharmacy Board inspection, failed to provide a written
20 copy of the pharmacy's pharmacy technician job description and policies and procedures in
21 violation of California Code of Regulations, title 16, section 1793.7, subdivision (d).

22 c. Respondent Levin, during a pharmacy Board inspection, failed to provide a written
23 copy of the pharmacy's theft and impairment policies and procedures in violation of section 4104,
24 subdivisions (a) and (b).

25 d. Respondent Levin allowed a clerk to transcribe new telephone prescriptions in
26 violation of California Code of Regulations, title 16, section 1793.1, subdivision (a).

27 ///

28 ///

1 e. Respondent Levin failed to complete a compounding self assessment prior to
2 allowing any drug product to be compounded in violation of California Code of Regulations, title
3 16, section 1735.2, subdivision (j).

4 f. Respondent Levin failed to keep records of compounded drug products in violation of
5 California Code of Regulations, title 16, section 1735.3, subdivision (a).

6 g. Respondent Levin, during a pharmacy Board inspection, was found to have assigned
7 an expiration date to a final compounded product that was beyond the expiration date of
8 ingredients used to compound the product in violation of California Code of Regulations, title 16,
9 section 1735.2, subdivision (h).

10 **OTHER MATTERS**

11 27. Pursuant to section 4307, if discipline is imposed on Original Permit Number PHY
12 50815 issued to Alguas Inc., doing business as Woodland Hills Pharmacy, then Alguas Inc.,
13 doing business as Woodland Hills Pharmacy, shall be prohibited from serving as a manager,
14 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
15 Original Permit Number PHY 50815 is placed on probation or until Original Permit Number
16 PHY 50815 is reinstated if the license is revoked.

17 28. Pursuant to section 4307, if discipline is imposed on Original Permit Number PHY
18 50815 issued to Alguas Inc., doing business as Woodland Hills Pharmacy, while Steven A.
19 Levin has been an officer and owner and had knowledge of, or knowingly participated in, any
20 conduct for which Alguas Inc., doing business as Woodland Hills Pharmacy, was disciplined,
21 Steven A. Levin shall be prohibited from serving as a manager, administrator, owner, member,
22 officer, director, associate, or partner of a licensee for five years if Original Permit Number PHY
23 50815 is placed on probation or until Original Permit Number PHY 50815 is reinstated if the
24 license is revoked.

25 **PRAYER**

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

28 ///

1 1. Revoking or suspending Original Permit Number PHY 50815, issued to Alguas Inc.,
2 doing business as Woodland Hills Pharmacy, with Steven A. Levin as the President, Pharmacist-
3 in-Charge, and 100% shareholder;

4 2. Prohibiting Alguas Inc., doing business as Woodland Hills Pharmacy, from serving
5 as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee
6 for five years if Original Permit Number PHY 50815 is placed on probation or until Original
7 Permit Number PHY 50815 is reinstated if Original Permit Number PHY 50815 issued to
8 Alguas Inc., doing business as Woodland Hills Pharmacy, is revoked;

9 3. Prohibiting Steven A. Levin from serving as a manager, administrator, owner,
10 member, officer, director, associate, or partner of a licensee for five years if Original Permit
11 Number PHY 50815 is placed on probation or until Original Permit Number PHY 50815 is
12 reinstated if Original Permit Number PHY 50815 issued to Alguas Inc., doing business as
13 Woodland Hills Pharmacy, is revoked;

14 4. Revoking or suspending Original Pharmacist License Number RPH 46443 to Steven
15 A. Levin;

16 5. Ordering Alguas Inc., doing business as Woodland Hills Pharmacy, and Steven A.
17 Levin to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of
18 this case, pursuant to Business and Professions Code section 125.3; and,

19 6. Taking such other and further action as deemed necessary and proper.
20
21

22
23 DATED: 2/13/17



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

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