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

11 In the Matter of the Accusation Against:
12 **PLEASANT VALLEY STATE PRISON**
24863 W. Jayne Avenue
13 Coalinga, CA 93210
Licensed Correctional Facility License No.
14 LCF 43347

Case No. 3435

A C C U S A T I O N

15
16 **RONALD SABY JULIANA**
P.O. Box 4336
17 Stockton, CA 95204
Registered Pharmacist License No. RPH
18 28127

Respondent.

19
20 Complainant alleges:

21 **PARTIES**

- 22
- 23 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
24 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
 - 25 2. On or about January 8, 1998, the Board of Pharmacy issued Licensed Correctional
26 Facility Number LCF 43347 to Pleasant Valley State Prison, hereinafter "Respondent PVSP".
27 The Correctional Facility License was in full force and effect at all relevant times and will expire
28 on November 1, 2009, unless renewed.

1 3. On or about March 22, 1973, the Board of Pharmacy issued Registered Pharmacist
2 License Number RPH 28127 to Ronald Saby Juliana hereinafter "Respondent Juliana". The
3 Registered Pharmacist License was in full force and effect at all times relevant to the charges
4 brought herein and will expire on October 31, 2009, unless renewed.

5 JURISDICTION

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

9 5. Section 4300 of the Code states in pertinent part:

10 "(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The
11 board may, in its sole discretion, issue a probationary license to any applicant for a license who is
12 guilty of unprofessional conduct and who has met all other requirements for licensure. The board
13 may issue the license subject to any terms or conditions not contrary to public policy, including,
14 but not limited to, the following:

15 "(1) Medical or psychiatric evaluation.

16 "(2) Continuing medical or psychiatric treatment.

17 "(3) Restriction of type or circumstances of practice.

18 "(4) Continuing participation in a board-approved rehabilitation program.

19 "(5) Abstention from the use of alcohol or drugs.

20 "(6) Random fluid testing for alcohol or drugs.

21 "(7) Compliance with laws and regulations governing the practice of pharmacy.

22
23 6. Business and Professions Code section 4301 provides in pertinent part:

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

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

28 (j) The violation of any of the statutes of this state, of any other state, or of the United

States regulating controlled substances and dangerous drugs.

(o) Violating or attempting to violate, directly or indirectly, or assisting in or 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 pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

7. Section 4332 of the Code requires that all records of sale, purchase, or disposition of dangerous drugs shall be at all times, during business hours, open to inspection by authorized officers of the law and shall be preserved for three years. A current inventory shall be kept by every pharmacy.

The owner, officer, and partner of any pharmacy shall be jointly responsible with the pharmacist-in-charge, for maintaining the records and inventory.

8. Section 4081 of the Code states:

"(a) All records of manufacture and of sale, acquisition, or disposition of 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 least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption under Division 2 (commencing with Section 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 of dangerous drugs or dangerous devices.

"(b) The owner, officer, and partner of any pharmacy, wholesaler, or veterinary food-animal drug retailer shall be jointly responsible, with the pharmacist-in-charge or representative-in-charge, for maintaining the records and inventory described in this section.

"(c) The pharmacist-in-charge or representative-in-charge shall not be criminally responsible for acts of the owner, officer, partner, or employee that violate this section and of which the pharmacist-in-charge or representative-in-charge had no knowledge, or in which he or she did not knowingly participate."

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9. California Code of Regulations, Title 16, section 1718, states:

"Current Inventory' as used in Sections 4081 and 4332 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332.

"The controlled substances inventories required by Title 21, CFR, Section 1304 shall be available for inspection upon request for at least 3 years after the date of the inventory."

10. Title 21, CFR Section 1304, subdivision (c) provides as follows:

(c) Biennial inventory date. After the initial inventory is taken, the registrant shall take a new inventory of all stocks of controlled substances on hand at least every two years. The biennial inventory may be taken on any date which is within two years of the previous biennial inventory date.

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

DRUGS

12. "Dilaudid," a brand of hydromorphone, is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(K).

13. "'Tylenol with Codeine No. 3" is a compound consisting of 30 mg. of codeine, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(2); and 300 mg. acetaminophen per tablet.

14. "Vicodin" is a compound consisting of 5 mg. hydrocodone bitartrate also known as dihydrocodeinone, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4), and 500 mg. acetaminophen per tablet.

1 FIRST CAUSE FOR DISCIPLINE

2 (Current Inventory)

3 15. Respondent PVSP and Juliana are subject to disciplinary action under Code sections
4 4801(a), 4322, and Title 16, California Code section 1718, in that they failed to maintain a
5 complete and accurate record of each and every dangerous drug and controlled substance
6 received, delivered, sold, or otherwise disposed by them. The circumstances surrounding
7 respondents PVSP and Juliana failure to maintain an accurate and complete record for dangerous
8 drugs are set forth below:

9 16. On or about January 3, 2008, representatives of the Board conducted an on site
10 inspection of the respondents' pharmacy. Pharmacy Board Inspector Venegas reviewed the
11 records at the facility and requested all records for the period of October 5, 2005 to September 13,
12 2007.

13 17. Inspector Venegas performed a selected drug audit summary for the period of
14 October 5, 2005 to September 13, 2007 and determined that the following drug shortages
15 existed: 190 tablets of Dialudid 4mg, 98 tablets of Tylenol #3, and 1,020 tablets of Vicodin.

16 18. Inspector Venegas obtained invoices from wholesalers and reviewed them with the
17 records maintained by Pleasant Valley State Prison. Pleasant Valley State Prison failed to
18 maintain copies of the following invoices:

19 McKesson Invoice #7255268415 dated 11/15/2005 for 400 Tylenol #3

20 McKesson Invoice #7261750291 dated 2/24/2006 for 400 Tylenol #3

21 McKesson Invoice #7253713920 dated 11/28/2005 for 2000 Vicodin

22 McKesson Invoice #7261750291 dated 2/24/2006 for 1000 Vicodin

23 AmerisourceBergen Invoice #8-274222 dated 4/2/2006 for 600 Vicodin

24 SECOND CAUSE FOR DISCIPLINE

25 (Unprofessional Conduct /DEA Biennial Inventory)

26 19. Respondent PVSP and Juliana are subject to disciplinary action for unprofessional
27 conduct pursuant to Code section 4301 (j) in conjunction with Code of Federal Regulations Section
28

1 1304.11 in that Respondents failed to maintain a separate DEA Biennial Inventory for the period
2 of October 5, 2005 and September 13, 2007.

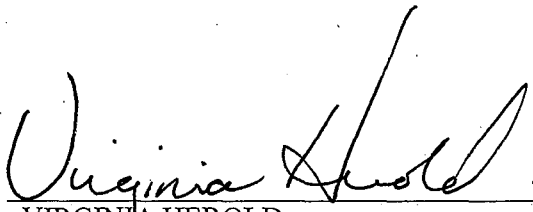
3 PRAYER

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

- 6 1. Revoking or suspending Registered Pharmacist License Number RPH 28127, issued
7 to Ronald Saby Juliana Ronald Saby Juliana.
- 8 2. Revoking or suspending Licensed Correctional Facility Number LCF 43347, issued
9 to Pleasant Valley State Prison.
- 10 3. Ordering Ronald Saby Juliana and Pleasant Valley State Prison to pay the Board of
11 Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to
12 Business and Professions Code section 125.3;
- 13 4. Taking such other and further action as deemed necessary and proper.

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DATED: 1/11/10


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

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