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3			
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8	BEFORE THE		
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
10	STATE OF C	LALIFORNIA	
11	In the Matter of the Accusation Against:	Case No. 3918	
12	TAOHEED HASAN dba VALLEY PHARMACY, PHARMACIST-IN-		
13	CHARGE, TAOHEED HASAN 1324 W. Avenue J, No. 1	ACCUSATION	
14	Lancaster, CA 93534		
15	Original Pharmacy Permit No. PHY 46866		
16	and		
17	TAOHEED HASAN 448 Sugarloaf Drive		
18	Palmdale, CA 93551		
19	Original Pharmacist License No. RPH 38785		
20	Respondents.		
21	·	<b>'</b>	
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	Taoheed Hasan dba Valley Pharmacy		
27	2. On or about September 13, 2004, the Board of Pharmacy issued Original Pharmacy		
28	Permit Number PHY 46866 to Taoheed Hasan to		
		1	

Accusation

Valley Pharmacy). The Original Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein and will expire on September 1, 2014, unless renewed.

#### Taoheed Hasan

3. On or about August 16, 1984, the Board of Pharmacy issued Original Pharmacist License Number RPH 38785 to Taoheed Hasan (Respondent Hasan). The Original Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2014, unless renewed.

#### <u>JURISDICTION</u>

- 4. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
- 5. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.
- 6. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].
- 7. Section 4300(a) of the Code states that every license issued by the Board may be suspended or revoked.
  - 8. Section 4300.1 of the Code 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."

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#### **STATUTORY PROVISIONS**

- 9. Section 4043 of the Code states:
- "(a) 'Wholesaler' means and includes a person who acts as a wholesale merchant, broker, jobber, customs broker, reverse distributor, agent, or a nonresident wholesaler, who sells for resale, or negotiates for distribution, or takes possession of, any drug or device included in 4022. Unless otherwise authorized by law a wholesaler may not store, warehouse or authorize the storage or warehousing of drugs with any person or at any location not licensed by the board."
  - 10. Section 4059 of the Code states:
  - "(b) This section does not apply to the furnishing of any dangerous drug or dangerous
- device by a manufacturer, wholesaler, or pharmacy to each other or to a physician, dentist,
- podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or to a
- laboratory under sales and purchase records that correctly give the date, the names and addresses
- of the supplier and the buyer, the drug or device, and its quantity. This section does not apply to
- the furnishing of any dangerous device by a manufacturer, wholesaler, or pharmacy to a physical
- 6 therapist acting within the scope of his or her license under sales and purchase records that
  - correctly provide the date the device is provided, the names and addresses of the supplier and the
  - buyer, a description of the device, and the quantity supplied."
    - 11. Code section 4126.5, subdivision (a), provides:
    - "(a) A pharmacy may furnish dangerous drugs only to the following:
  - (4) Another pharmacy or wholesaler to alleviate a temporary shortage of a dangerous drug that could result in the denial of health care. A pharmacy furnishing dangerous drugs pursuant to
  - (5) A patient or to another pharmacy pursuant to a prescription or as otherwise authorized by law.

this paragraph may only furnish a quantity sufficient to alleviate the temporary shortage.

(7) To another pharmacy under common control."

except veterinary drugs that are labeled as such, and includes the following:

"Dangerous drug' or 'dangerous device' means any drug or device unsafe for self-use,

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

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- "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006."
- 17. Fentanyl is a Schedule II controlled substance pursuant to Health and Safety Code section 11055(c)(8) and is a dangerous drug pursuant to Business and Professions Code section 4022.

#### FIRST CAUSE FOR DISCIPLINE

(Selling Dangerous Drugs without a Wholesaler License)

As to Respondent Valley Pharmacy and Hasan

- 18. Respondents are subject to disciplinary action under section 4301, subdivisions (j) and (o), and violating section 4160, subdivision (a) for selling dangerous drugs without a wholesaler license. The circumstances are as follows:
- 19. On or between November 3, 2009 and December 30, 2009 and on or between March 1, 2010 and June 7, 2010, Respondents sold approximately \$92,911.01 worth of dangerous drugs to Moazzem H. Chowdhury dba Desert Drugs (Desert Drugs) without a wholesaler license.

	Date	Invoice Record	Approximate Amount
1	11/3/09	PO# V/P to D/D-moaz	\$459.59
2	11/16/09	PO# D/D to V/P-moaz	\$20.72
3	11/23/09	PO# For Tauheed	\$38.80
4	12/29/09	PO# V/P to D/D-moaz	\$1,579.00
		PO# FOA-12/30/09-	
5	12/30/09	Wed	\$396.31
6	3/1/10	PO# V/P to D/D moaz	\$1,154.86
7	3/2/10	PO# V/P to D/D moaz	\$1,658.65
8	3/3/10	PO# D/D to A/P moz	\$315.21
9	3/3/10	PO# V/P to D/D moaz	\$1,855.20
10	3/4/10	PO# V/P to D/D moaz	\$1,880.66
11	3/5/10	PO# Desert Drugs	\$807.16
12	3/6/10	PO# V/P 3/06/10	\$109.11

I.				
	3	3/6/10	PO# Desert Drugs	\$591.39
	4	3/6/10	PO# V/P to D/D moaz	\$5,268.78
	5	3/9/10	PO# Desert Drugs	\$3,345.93
	6	3/10/10	PO# V/P to D/D moaz	\$131.95
	7	3/11/10	PO# V/P to D/D moaz	\$1,792.21
	8	3/12/10	PO# V/P to D/D moaz	\$4,197.85
1	9	3/12/10	PO# D/D to A/P	\$15.74
2	20	3/13/10	PO# abill	\$7,996.00
2	21	3/13/10	PO# V/P to D/D 3/13	\$2,300.00
2	22	3/17/10	PO# V/P to D/D moaz	\$1,049.09
2	23	3/22/10	PO# V/P to D/D moaz	\$644.35
2	4	3/24/10	PO# Tauheed Moaz	\$3,277.25
2	25	3/26/10	PO# V/P to D/D moaz	\$2,110.75
2	26	3/26/10	PO# Tauheed/Moazzem	\$988.81
2	27	3/29/10	PO# Needs for LARC	\$8,524.68
2	28	3/30/10	PO# V/P to D/D moaz	\$2,963.88
2	29	4/9/10	PO# Desert Drugs	\$4,997.41
3	30	4/14/10	PO# V/P to D/D moaz	\$11.50
3	1	4/16/10	PO# V/P to D/D moaz	\$3,782.66
3	2	4/17/10	PO# V/P to D/D moaz	\$140.28
3	3	4/19/10	PO# V/P to D/D moaz	\$95.88
3	4	4/20/10	PO# V/P to D/D moaz	\$1,003.40
3	5	4/26/10	PO# V/P to D/D moaz	\$7,679.48
3	6	4/29/10	PO# V/P to D/D moaz	\$1,537.05
3	7	5/25/10	PO# V/P to D/D moaz	\$3,216.69
3	8	5/25/10	PO# V/P to D/D moaz	\$11,350.51
3	9	6/2/2010	PO# V/P to D/D	\$1,910.00
4	10	6/7/10	PO# V/P to D/D moaz	\$1,712.22
			Total	\$92,911.01

#### SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Furnishing Dangerous Drugs without a Prescription)

As to Respondent Valley Pharmacy and Hasan

20. Respondents are subject to disciplinary action under section 4301, subdivisions (j) and (o) for violating section 4059, subdivision (b) in that Respondents furnished prescription medications without prescription. The circumstances are as follows:

21. On or between November 3, 2009 and December 30, 2009 and on or between March 1, 2010 and June 7, 2010, Respondents furnished approximately \$92,911.01 worth of dangerous drugs to Desert Pharmacy without proper sales records that correctly documented the date and the names and addresses of the supplier and buyer.

	<b>Date</b> 11/3/09 11/16/09 11/23/09	PO# V/P to D/D-moaz PO# D/D to V/P-moaz	<b>Amount</b> \$459.59
<del></del>	11/16/09		·····
<del></del>			\$20.72
1 2 1		PO# For Tauheed	\$38.80
4	12/29/09	PO# V/P to D/D-moaz	\$1,579.00
5	12/30/09	PO# FOA-12/30/09- Wed	\$396.31
$\frac{3}{6}$	3/1/10	PO# V/P to D/D moaz	\$1,154.86
7	3/2/10		\$1,658.65
<del></del>		PO# V/P to D/D moaz	
8	3/3/10	PO# D/D to A/P moz	\$315.21
9	3/3/10	PO# V/P to D/D moaz	\$1,855.20
10	3/4/10	PO# V/P to D/D moaz	\$1,880.66
11	3/5/10	PO# Desert Drugs	\$807.16
12	3/6/10	PO# V/P 3/06/10	\$109.11
13	3/6/10	PO# Desert Drugs	\$591.39
14	3/6/10	PO# V/P to D/D moaz	\$5,268.78
15	3/9/10	PO# Desert Drugs	\$3,345.93
16	3/10/10	PO# V/P to D/D moaz	\$131.95
17	3/11/10	PO# V/P to D/D moaz	\$1,792.21
18	3/12/10	PO# V/P to D/D moaz	\$4,197.85
19	3/12/10	PO# D/D to A/P	\$15.74
20	3/13/10	PO# abill	\$7,996.00
21	3/13/10	PO# V/P to D/D 3/13	\$2,300.00
22	3/17/10	PO# V/P to D/D moaz	\$1,049.09
23	3/22/10	PO# V/P to D/D moaz	\$644.35
24	3/24/10	PO# Tauheed Moaz	\$3,277.25
25	3/26/10	PO# V/P to D/D moaz	\$2,110.75
26	3/26/10	PO# Tauheed/Moazzem	\$988.81
27	3/29/10	PO# Needs for LARC	\$8,524.68
28	3/30/10	PO# V/P to D/D moaz	\$2,963.88
29	4/9/10	PO# Desert Drugs	\$4,997.41
30	4/14/10	PO# V/P to D/D moaz	\$11.50
31	4/16/10	PO# V/P to D/D moaz	\$3,782.66
32	4/17/10	PO# V/P to D/D moaz	\$140.28

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33	4/19/10	PO# V/P to D/D moaz	\$95.88
34	4/20/10	PO# V/P to D/D moaz	\$1,003.40
35	4/26/10	PO# V/P to D/D moaz	\$7,679.48
36	4/29/10	PO# V/P to D/D moaz	\$1,537.05
37	5/25/10	PO# V/P to D/D moaz	\$3,216.69
38	5/25/10	PO# V/P to D/D moaz	\$11,350.51
39	6/2/2010	PO# V/P to D/D	\$1,910.00
40	6/7/10	PO# V/P to D/D moaz	\$1,712.22
		Total	\$92,911.01

#### **DISCIPLINE CONSIDERATIONS**

- 22. To determine the degree of discipline, if any, to be imposed on Respondent Valley Pharmacy, Complainant alleges that on or about June 8, 2010, in a prior action, the Board of Pharmacy issued Citation Number CI 2009 41278 and ordered Respondent to pay a citation fine of \$6,125.00. That Citation is now final and is incorporated by reference as if fully set forth.
- 23. To determine the degree of discipline, if any, to be imposed on Respondent Hasan, Complainant alleges that on or about June 8, 2010, in a prior action, the Board of Pharmacy issued Citation Number CI 2009 44007 and ordered Respondent to pay a citation fine of \$6,125.00. That Citation is now final and is incorporated by reference as if fully set forth.
- 24. To determine the degree of discipline, if any, to be imposed on Respondent Valley Pharmacy, Complainant alleges that on or about December 9, 2009, in a prior action, the Board of Pharmacy issued Citation Number CI 2008 39751 and ordered Respondent to pay a citation fine of \$1,750.00. That Citation is now final and is incorporated by reference as if fully set forth.
- 25. To determine the degree of discipline, if any, to be imposed on Respondent Hasan, Complainant alleges that on or about December 9, 2009, in a prior action, the Board of Pharmacy issued Citation Number CI 2009 42417 and ordered Respondent to pay a citation fine of \$5,000.00. That Citation is now final and is incorporated by reference as if fully set forth.
- 26. To determine the degree of discipline, if any, to be imposed on Respondent Valley Pharmacy, Complainant alleges that on or about November 25, 2009, in a prior action, the Board of Pharmacy issued Citation Number CI 2007 35402 and ordered Respondent to pay a citation fine of \$5,000.00. That Citation is now final and is incorporated by reference as if fully set forth.

1	27. To determine the degree of discipline, if any, to be imposed on Respondent Hasan,			
2	Complainant alleges that on or about November 25, 2009, in a prior action, the Board of			
3	Pharmacy issued Citation Number CI 2009 42197 and ordered Respondent to pay a citation fine			
4	of \$5,000.00. That Citation is now final and is incorporated by reference as if fully set forth.			
5	<u>PRAYER</u>			
6	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,			
7	and that following the hearing, the Board of Pharmacy issue a decision:			
8	1. Revoking or suspending Original Pharmacy Permit Number PHY 46866, issued to			
9	Taoheed Hasan to do business as Valley Pharmacy;			
10	2. Revoking or suspending Original Pharmacist License Number RPH 38785, issued to			
11	Taoheed Hasan;			
12	3. Ordering Valley Pharmacy and Taoheed Hasan to pay the Board of Pharmacy the			
13	reasonable costs of the investigation and enforcement of this case, pursuant to Business and			
14	Professions Code section 125.3; and			
15	4. Taking such other and further action as deemed necessary and proper.			
16				
17	DATED: 11/19/13 VIRGINA HEROLD			
18	Executive Officer Board of Pharmacy			
19	Department of Consumer Affairs State of California			
20	Complainant			
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Accusation