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

11 In the Matter of the Accusation Against:
12 **ROBERT BENLEVI**
P.O. Box 7581
13 Santa Monica, CA 90406
14 Pharmacist License No. RPH 46690
15 Respondent.

Case No. 4081

A C C U S A T I O N

16
17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board).
21 2. On or about September 7, 1993, the Board issued Pharmacist License No. RPH 46690
22 to Robert Benlevi (Respondent). The Pharmacist License is inactive and will expire on August
23 31, 2013, unless renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board under the authority of the following
26 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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1 STATUTORY PROVISIONS

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

6 5. Section 490 provides that a board may suspend or revoke a license on the ground that
7 the licensee has been convicted of a crime substantially related to the qualifications, functions, or
8 duties of the business or profession for which the license was issued.

9 6. Section 4300, subdivision (a), states that "[e]very license issued may be suspended or
10 revoked."

11 7. Section 4301 states, in pertinent part:

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

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

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20 "(l) The conviction of a crime substantially related to the qualifications, functions, and
21 duties of a licensee under this chapter. . . ."

22 REGULATORY PROVISION

23 8. California Code of Regulations, title 16, section 1770 states:

24 "For the purpose of denial, suspension, or revocation of a personal or facility license
25 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
26 crime or act shall be considered substantially related to the qualifications, functions or duties of a
27 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a

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1 licensee or registrant to perform the functions authorized by his license or registration in a manner
2 consistent with the public health, safety, or welfare."

3 **COST RECOVERY**

4 9. Section 125.3 provides that the Board may request the administrative law judge to
5 direct a licentiate found to have committed a violation or violations of the licensing act to pay a
6 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Convictions of Substantially Related Crimes)**

9 10. Respondent is subject to disciplinary action under sections 490, 4300, and 4301,
10 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, in that
11 Respondent was convicted of crimes substantially related to the qualifications, functions or duties
12 of a pharmacist which to a substantial degree evidence his present or potential unfitness to
13 perform the functions authorized by his license in a manner consistent with the public health,
14 safety, or welfare. The circumstances of the convictions are as follows:

15 a. On or about October 5, 2010, after pleading nolo contendere, Respondent was
16 convicted of one interlineated misdemeanor count of violating Penal Code section 484(a) [theft]
17 in the criminal proceeding entitled *The People of the State of California v. Robert Benlevi* (Super.
18 Ct. Los Angeles County, 2010, No. 0WA23640). The Court sentenced Respondent to three (3)
19 days in jail, placed him on 24 months probation, and ordered him to stay away from Sears, Santa
20 Monica. The circumstances underlying the conviction are that on or about June 18, 2010,
21 Respondent entered Sears, Santa Monica, and stole a pair of swim shorts and a T-shirt, valued at
22 about \$40.00.

23 b. On or about July 14, 2010, after pleading nolo contendere, Respondent was convicted
24 of one misdemeanor count of violating Penal Code section 602.5(a) [enter/remain in
25 noncommercial dwelling] in the criminal proceeding entitled *The People of the State of California*
26 *v. Robert Benlevi* (Super. Ct. Los Angeles County, 2010, No. 0PY03731). The Court sentenced
27 Respondent to 60 days in jail, placed him on 36 months probation, and ordered him to undergo
28 six (6) months of psychological counseling at the rate of two (2) sessions per month. The

1 circumstances underlying the conviction are that on or about June 23, 2010, in violation of a
2 restraining order on file with the Los Angeles Police Department, Respondent entered a vacant
3 apartment from which he had been evicted.

4 c. On or about April 28, 2010, after being found guilty by a jury, Respondent was
5 convicted of violating Penal Code section 602.5(a) [enter/remain in noncommercial dwelling] in
6 the criminal proceeding entitled *The People of the State of California v. Robert Benlevi* (Super.
7 Ct. Los Angeles County, 2010, No. 0PY01865). The Court placed Respondent on 36 months
8 probation, ordered him to complete ten (10) days of Cal Trans, and ordered him to stay away
9 from L.H., C.H. and 6230 Reseda Blvd, Tarzana. The circumstances underlying the conviction
10 are that on or about October 2009 through March 29, 2010, Respondent had been entering and
11 leaving his evicted apartment at 6230 Reseda Blvd. by entering the apartment through the roof
12 and jumping into the balcony. On or about March 29, 2010, Respondent was found sitting in the
13 middle of his evicted apartment's living room.

14 d. On or about March 1, 2005, after pleading nolo contendere, Respondent was
15 convicted of violating Penal Code section 470(a) [forgery], a felony, in the criminal proceeding
16 entitled *The People of the State of California v. Robert Benlevi* (Super. Ct. Los Angeles County,
17 2005, No. SA055436). The Court sentenced Respondent to 15 days in jail, placed him 36 months
18 probation, ordered him to complete thirty (30) days of Cal Trans, and stay away from Washington
19 Mutual located at 1550 Westwood Blvd., Los Angeles. Respondent was ordered to pay
20 restitution to Washington Mutual. The circumstances underlying the conviction are that on or
21 about February 18, 2005, Respondent entered a Washington Mutual Bank and tried to open a new
22 checking account with false identification documents in another person's name.

23 SECOND CAUSE FOR DISCIPLINE

24 (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit)

25 11. Respondent is subject to disciplinary action under sections 4300 and 4301,
26 subdivision (f), in that Respondent committed acts involving moral turpitude, dishonesty, fraud,
27 deceit, or corruption. Complainant refers to and by this reference incorporates the allegations set
28 forth above in paragraph 10, inclusive, as though set forth fully.

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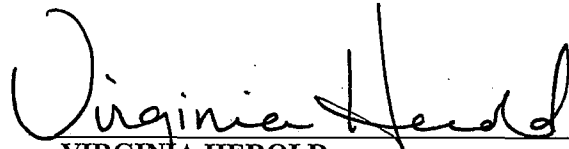
PRAYER

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

1. Revoking or suspending Pharmacist License No. RPH 46690, issued to Robert Benlevi;
2. Ordering Robert Benlevi to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED:

6/15/12



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

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