

1 KAMALA D. HARRIS  
Attorney General of California  
2 MARC D. GREENBAUM  
Supervising Deputy Attorney General  
3 MORGAN MALEK  
Deputy Attorney General  
4 State Bar No. 223382  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2643  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

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

10 In the Matter of the Accusation Against:

Case No. 5244

11 **PHARMA-RX, INC.**  
12 **Khachatur Pogosyan, President**  
13 **412 W. Broadway, Ste. 200**  
14 **Glendale, CA 91204**  
**Wholesale Permit No. WLS 5405**

**A C C U S A T I O N**

15 **KHACHATUR POGOSYAN**  
16 **Designated Representative License**  
**No. EXC 19398**

17 Respondent.

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22 Complainant alleges:

23 **PARTIES**

- 24 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
25 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
26 2. On or about June 5, 2009, the Board of Pharmacy issued Wholesale Permit Number  
27 WLS 5405 to Pharma-RX, Inc. (PHARMA-RX). The Wholesale Permit expired on February 18,  
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1 2014, and has not been renewed. Khachatur Pogosyan (POGOSYAN) is the President of  
2 PHARMA-RX.

3 3. On or about December 2, 2008, the Board of Pharmacy issued Designated  
4 Representative License Number EXC 19398 to POGOSYAN. The Designated Representative  
5 License will expire on December 1, 2015, unless renewed.

6 4. POGOSYAN also owns a pharmacy by the name of KVP Pharmacy Inc.. An  
7 Accusation is pending against KVP Pharmacy, Inc. (KVP) at the present time. On or about March  
8 1, 2011, the Board of Pharmacy issued Pharmacy Permit Number PHY 50535 to KVP. The  
9 Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein  
10 and will expire on March 1, 2016, unless renewed. POGOSYAN is and was the sole owner of  
11 KVP since March 1, 2011. The Statement of Information filed with the Secretary of State on  
12 November 24, 2010, provides that POGOSYAN was the Chief Executive Office, Chief Financial  
13 Officer, Director, Officer, Shareholder and Secretary of KVP.

#### 14 JURISDICTION

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

#### 18 STATUTORY PROVISIONS

19 6. **Section 118, subdivision (b)**, of the Code provides that the suspension, expiration,  
20 surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
21 disciplinary action during the period within which the license may be renewed, restored, reissued  
22 or reinstated.

23 7. **Section 4110, subdivision (a)**, of the Code provides that no person shall conduct a  
24 pharmacy in the State of California unless he or she has obtained a license from the board. A  
25 license shall be required for each pharmacy owned or operated by a specific person. A separate  
26 license shall be required for each of the premises of any person operating a pharmacy in more than  
27 one location. The license shall be renewed annually. The board may, by regulation, determine the  
28 circumstances under which a license may be transferred.

1           8.     **Section 4307** of the Code provides in pertinent part:

2           (a) Any person who has been denied a license or whose license has been revoked or is under  
3 suspension, or who has failed to renew his or her license while it was under suspension, or who  
4 has been a manager, administrator, owner, member, officer, director, associate, or partner of any  
5 partnership, corporation, firm, or association whose application for a license has been denied or  
6 revoked, is under suspension or has been placed on probation, and while acting as the manager,  
7 administrator, owner, member, officer, director, associate, or partner had knowledge of or  
8 knowingly participated in any conduct for which the license was denied, revoked, suspended, or  
9 placed on probation, shall be prohibited from serving as a manager, administrator, owner,  
10 member, officer, director, associate, or partner of a licensee as follows:

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

13                 (2) Where the license is denied or revoked, the prohibition shall continue until the  
14 license is issued or reinstated.

15           (b) “Manager, administrator, owner, member, officer, director, associate, or partner,” as  
16 used in this section and Section 4308, may refer to a pharmacist or to any other person who serves  
17 in that capacity in or for a licensee.

18           (c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant to  
19 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code.  
20 However, no order may be issued in that case except as to a person who is named in the caption,  
21 as to whom the pleading alleges the applicability of this section, and where the person has been  
22 given notice of the proceeding as required by Chapter 5 (commencing with Section 11500) of Part  
23 1 of Division 3 of the Government Code. The authority to proceed as provided by this subdivision  
24 shall be in addition to the board’s authority to proceed under Section 4339 or any other provision  
25 of law.

26           9.     **Section 17200** of the Code provides in pertinent part that unfair competition shall  
27 mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive,  
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1 untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section  
2 17500) of Part 3 of Division 7 of the Business and Professions Code.

3 **REGULATORY PROVISIONS**

4 10. **California Code of Regulations, Title 16, section 1780** provides:

5 "The following minimum standards shall apply to all wholesale establishments for which  
6 permits have been issued by the Board:

7 (a) A wholesaler shall store dangerous drugs in a secured and lockable area.

8 (b) All wholesaler premises, fixtures and equipment therein shall be maintained in a clean  
9 and orderly condition. Wholesale premises shall be well ventilated, free from rodents and insects,  
10 and adequately lighted. Plumbing shall be in good repair. Temperature and humidity monitoring  
11 shall be conducted to assure compliance with the United States Pharmacopeia Standards (1990,  
12 22nd Revision).

13 (c) Entry into areas where prescription drugs are held shall be limited to authorized  
14 personnel.

15 (1) All facilities shall be equipped with an alarm system to detect entry after hours.

16 (2) All facilities shall be equipped with a security system that will provide suitable  
17 protection against theft and diversion. When appropriate, the security system shall provide  
18 protection against theft or diversion that is facilitated or hidden by tampering with computers or  
19 electronic records.

20 (3) The outside perimeter of the wholesaler premises shall be well-lighted.

21 (d) All materials must be examined upon receipt or before shipment.

22 (1) Upon receipt, each outside shipping container shall be visually examined for  
23 identity and to prevent the acceptance of contaminated prescription drugs or prescription drugs  
24 that are otherwise unfit for distribution. This examination shall be adequate to reveal container  
25 damage that would suggest possible contamination or other damage to the contents.

26 (2) Each outgoing shipment shall be carefully inspected for identity of the prescription  
27 drug products and to ensure that there is no delivery of prescription drugs that have been damaged  
28 in storage or held under improper conditions.

1 (e) The following procedures must be followed for handling returned, damaged and  
2 outdated prescription drugs.

3 (1) Prescription drugs that are outdated, damaged, deteriorated, misbranded or  
4 adulterated shall be placed in a quarantine area and physically separated from other drugs until  
5 they are destroyed or returned to their supplier.

6 (2) Any prescription drugs whose immediate or sealed outer or sealed secondary  
7 containers have been opened or used shall be identified as such, and shall be placed in a  
8 quarantine area and physically separated from other prescription drugs until they are either  
9 destroyed or returned to the supplier.

10 (3) If the conditions under which a prescription drug has been returned cast doubt on  
11 the drug's safety, identity, strength, quality or purity, the drug shall be destroyed or returned to the  
12 supplier unless testing or other investigation proves that the drug meets appropriate United States  
13 Pharmacopeia Standards (1990, 22nd Revision).

14 (f) Policies and procedures must be written and made available upon request by the board.

15 (1) Wholesale drug distributors shall establish, maintain, and adhere to written  
16 policies and procedures, which shall be followed for the receipt, security, storage, inventory and  
17 distribution of prescription drugs, including policies and procedures for identifying, recording,  
18 and reporting losses or thefts, for correcting all errors and inaccuracies in inventories, and for  
19 maintaining records to document proper storage.

20 (2) The records required by paragraph (1) shall be in accordance with Title 21, Code  
21 of Federal Regulations, Section 205.50(g). These records shall be maintained for three years after  
22 disposition of the drugs.

23 (3) Wholesale drug distributors shall establish and maintain lists of officers, directors,  
24 managers and other persons in charge of wholesale drug distribution, storage and handling,  
25 including a description of their duties and a summary of their qualifications.

26 (4) Each wholesaler shall provide adequate training and experience to assure  
27 compliance with licensing requirements by all personnel.  
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1 (g) The board shall require an applicant for a licensed premise or for renewal of that license  
2 to certify that it meets the requirements of this section at the time of licensure or renewal.

3 11. **California Code of Regulations, Title 16, section 1784** provides:

4 (a) The designated representative-in-charge of each wholesaler as defined under section  
5 4160 of the Business and Professions Code shall complete a self-assessment of the wholesaler's  
6 compliance with federal and state pharmacy law. The assessment shall be performed before July 1  
7 of every odd-numbered year. The primary purpose of the self-assessment is to promote  
8 compliance through self-examination and education.

9 (b) In addition to the self-assessment required in subdivision (a) of this section, the  
10 designated representative-in-charge shall complete a self-assessment within 30 days whenever:

11 (1) A new wholesaler permit is issued, or

12 (2) There is a change in the designated representative-in-charge. The new designated  
13 representative-in-charge of a wholesaler is responsible for compliance with this subdivision.

14 (3) There is a change in the licensed location of a wholesaler to a new address.

15 (c) The components of this assessment shall be on Form 17M-26 (Rev. 01/11) entitled  
16 "Wholesaler Dangerous Drugs & Dangerous Devices Self-Assessment" which is hereby  
17 incorporated by reference to evaluate compliance with federal and state laws and regulations.

18 (d) Each self-assessment shall be kept on file in the licensed wholesale premises for three  
19 years after it is completed.

20 (e) The wholesaler is jointly responsible with the designated representative-in-charge for  
21 compliance with this section.

22 **COST RECOVERY**

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

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STATEMENT OF FACTS

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2       13. On July 16, 2013, Inspector S.P. and Supervising Inspector J.D. visited PHARMA-  
3 RX, for an inspection. Inspector S.P. issued a written notice of non-compliance for the following:  
4 (1) failure to monitor temperature and humidity; (2) failure to have an alarm to detect after hours  
5 entry; (3) failure to have written policy and procedures for receipt, security, storage, inventory and  
6 distribution, reporting theft and loss, correcting errors and inaccuracies in inventories, handling  
7 outdated or damaged returns and record retention; (4) failure to maintain a list of officers,  
8 directors, managers and other persons in charge of distribution, storage and handling, including  
9 duties and qualifications; (5) failure to have documentation of training provided to its personnel  
10 to assure compliance with licensing requirements; (6) Designated Representative In Charge,  
11 POGOSYAN, failed to complete a self-assessment of the wholesaler's compliance with federal  
12 and state pharmacy law.

13       14. On or about July 30, 2013, Inspector S.P. contacted Drug Enforcement  
14 Administration (DEA) Diversion investigator regarding the supporting documents addressing the  
15 payment of physician DEA registration by POGOSYAN. The investigation revealed that the  
16 DEA registration for practitioner J.L. was in fact paid by POGOSYAN and that the payment for  
17 the DEA registration was made by a Visa credit card on July 10, 2009, for \$551.00 under account  
18 holder name "Khachatur Pogosyan".

19       15. On November 19, 2013, Board Inspector A.Y. and J.W. re-visited KVP and then  
20 PHARMA-RX, to follow up on the Board's complaint investigations. Upon visiting PHARMA-  
21 RX, the inspectors discovered KVP was operating, conducting, practicing and acting as a  
22 pharmacy at the same location AS PHARMA-RX (412 W. Broadway Street #200, Glendale, CA  
23 91204, an *unlicensed* pharmacy location. The inspectors issued legal reference information on  
24 Business and Professions Code section 4110, with respect to KVP ordering it to immediately  
25 *cease* pharmacy operations at the *unlicensed* pharmacy location and transfer all records back to  
26 the licensed pharmacy premise by noon the following day.

27       16. On November 21, 2013, Board Inspector A.Y. revisited KVP, and PHARMA-RX,  
28 and was informed that PHARMA-RX had not conducted business for quite some time.

1 POGOSYAN stated that PHARMA-RX never had any drug inventory and primarily functioned as  
2 a *broker*. Inspector A.Y. addressed the filing of Discontinuance of Business (DOB) for  
3 PHARMA-RX with Designated Representative In Charge POGOSYAN. On November 22, 2013,  
4 Inspector A.Y. received the DOB form for PHARMA-RX.

5 17. On or about January 9, 2014, Board Inspector J.W contacted Dr. J.L., and left a  
6 message to have him contact him. On January 29, 2014, Inspector J.W. spoke with Dr. J.L.  
7 regarding his DEA license. Dr. J.L. denied he maintained an office practice located in Pasadena  
8 since the end of Spring of 2013. Dr. J.L. stated that he would see patients at the office of another  
9 practitioner, a chiropractor, W.C., approximately once a month. Dr. J.L. was unsure whether he  
10 maintained an active DEA registration at the Pasadena location. He denied being familiar with a  
11 business entity named PHARMA-RX. Dr. J.L. stated that he knew POGOSYAN and that he had  
12 spoken with him, however, he denied having any relationship, personal or business, with  
13 POGOSYAN, except of just knowing POGOSYAN. When asked whether he was aware that his  
14 DEA registration (Pasadena location) was paid by POGOSYAN, Dr. J.L. denied and stated that he  
15 pays for his DEA registration and that he did not take any monetary value from POGOSYAN.

16 **FIRST CAUSE FOR DISCIPLINE**

17 (Unlawful, Unfair or Fraudulent Business Act)

18 18. Respondent POGOSYAN is subject to disciplinary action under Business and  
19 Professions Code section 17200 in that he committed unlawful, unfair or fraudulent business act  
20 or practice when he paid the DEA registration for practitioner J.L. using his Visa credit card on  
21 July 10, 2009, for \$551.00, under account holder name "Khachatur Pogosyan". Complainant  
22 refers to, and by this reference incorporates, the allegations set forth above in paragraphs 12  
23 through 16, as though set forth fully.

24 **SECOND CAUSE FOR DISCIPLINE**

25 (Operating as a pharmacy)

26 19. Respondents are subject to disciplinary action under Business and Professions Code  
27 section 4110, subsection (a) in that during a Board investigation of PHARMA-RX on November  
28 19, 2013, the inspectors discovered that KVP was operating, conducting, practicing and acting as



1 a pharmacy at the same location AS PHARMA-RX (412 W. Broadway Street #200, Glendale, CA  
2 91204, an *unlicensed* pharmacy location. The inspectors issued legal reference information on  
3 Business and Professions Code section 4110, with respect to KVP ordering it to immediately  
4 *cease* pharmacy operations at the *unlicensed* pharmacy location ad transfer all records back to the  
5 licensed pharmacy premise by noon the following day. Complainant refers to, and by this  
6 reference incorporates, the allegations set forth above in paragraphs 12 through 16, as though set  
7 forth fully.

### 8 **THIRD CAUSE FOR DISCIPLINE**

9 (Failure to Maintain Minimum Standards for Wholesalers)

10 20. Respondents PHARMA-RX and POGOSYAN are subject to disciplinary action under  
11 section 1780, subdivision (b) of the California Code of Regulations, Title 16, in that during a  
12 Board investigation of PHARMA-RX on July 16, 2013, Respondents failed to have equipment to  
13 monitor temperature and humidity as required in the minimum standards for wholesalers, in  
14 violation of section 1780, subdivision (b) of the California Code of Regulations, Title 16.  
15 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
16 paragraphs 12 through 16, as though set forth fully.

### 17 **FOURTH CAUSE FOR DISCIPLINE**

18 (Failure to Maintain Minimum Standards for Wholesalers)

19 21. Respondents PHARMA-RX and POGOSYAN are subject to disciplinary action under  
20 section 1780, subdivision (c)(1) of the California Code of Regulations, Title 16, in that during a  
21 Board investigation of PHARMA-RX on July 16, 2013, Respondents failed to have installed an  
22 alarm system to detect entry after hours, in violation of section 1780, subdivision (c)(1) of the  
23 California Code of Regulations, Title 16. Complainant refers to, and by this reference  
24 incorporates, the allegations set forth above in paragraphs 12 through 16, as though set forth fully.

### 25 **FIFTH CAUSE FOR DISCIPLINE**

26 (Failure to Maintain Minimum Standards for Wholesalers)

27 22. Respondents PHARMA-RX and POGOSYAN are subject to disciplinary action under  
28 section 1780, subdivision (f)(1) of the California Code of Regulations, Title 16, in that during a

1 Board investigation of PHARMA-RX on July 16, 2013, Respondents failed to have available for  
2 review written policies and procedures for the receipt, security, storage, inventory and distribution  
3 of prescription drugs, including policies and procedures for identifying, recording, and reporting  
4 losses or thefts, for correcting all errors and inaccuracies in inventories, and for maintaining  
5 records to document proper storage, in violation of section 1780, subdivision (f)(1) of the  
6 California Code of Regulations, Title 16. Complainant refers to, and by this reference  
7 incorporates, the allegations set forth above in paragraphs 12 through 16, as though set forth fully

8 **SIXTH CAUSE FOR DISCIPLINE**

9 (Failure to Maintain Minimum Standards for Wholesalers)

10 23. Respondents PHARMA-RX and POGOSYAN are subject to disciplinary action under  
11 section 1780, subdivision (f)(3) of the California Code of Regulations, Title 16, in that during a  
12 Board investigation of PHARMA-RX on July 16, 2013, Respondents failed to have available for  
13 review written policies and procedures on the maintenance of officers, directors, managers and  
14 other persons in charge of wholesale drug distribution, storage and handling, including a  
15 description of their duties and a summary of their qualifications, in violation of section 1780,  
16 subdivision (f)(3) of the California Code of Regulations, Title 16. Complainant refers to, and by  
17 this reference incorporates, the allegations set forth above in paragraphs 12 through 16, as though  
18 set forth fully.

19 **SEVENTH CAUSE FOR DISCIPLINE**

20 (Failure to Maintain Minimum Standards for Wholesalers)

21 24. Respondents PHARMA-RX and POGOSYAN are subject to disciplinary action under  
22 section 1780, subdivision (f)(4) of the California Code of Regulations, Title 16, in that during a  
23 Board investigation of PHARMA-RX on July 16, 2013, Respondents failed to have available for  
24 review written policies and procedures on providing adequate training and experience to assure  
25 compliance with licensing requirements by all personnel and corresponding documentation of  
26 said compliance, in violation of section 1780, subdivision (f)(4) of the California Code of  
27 Regulations, Title 16. Complainant refers to, and by this reference incorporates, the allegations  
28 set forth above in paragraphs 12 through 16, as though set forth fully.

1 **EIGHTH CAUSE FOR DISCIPLINE**

2 (Failure to Maintain Minimum Standards for Wholesalers)

3 25. Respondents PHARMA-RX and POGOSYAN are subject to disciplinary action under  
4 section 1784, subdivision (a) of the California Code of Regulations, Title 16, in that during a  
5 Board investigation of PHARMA-RX on July 16, 2013, the designated representative-in-charge,  
6 POGOSYAN, failed to have completed the wholesaler self-assessment since June 5, 2009, in  
7 violation of section 1784, subdivision (a) of the California Code of Regulations, Title 16.  
8 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
9 paragraphs 12 through 16, as though set forth fully.

10 **PRAAYER**

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

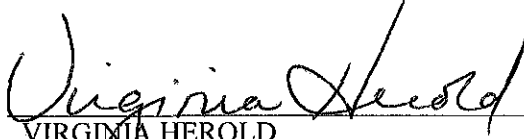
- 13 1. Revoking or suspending Wholesale Permit Number WLS 4405, issued to Pharma-  
14 RX, Inc.;
- 15 2. Revoking or suspending Designated Representative License Number EXC 19398,  
16 issued to Kahachatur Pogosyan;
- 17 3. Prohibiting Kahachatur Pogosyan from serving as a manager, administrator, owner,  
18 member, officer, director, associate, or partner of a licensee for five years if Designated  
19 Representative License Number EXC 19398 is placed on probation or until Designated  
20 Representative License Number EXC 19398 is reinstated if Designated Representative License  
21 Number EXC 19398 issued to Kahachatur Pogosyan is revoked;
- 22 4. Prohibiting Khachatur Pogosyan from serving as a manager, administrator, owner,  
23 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit  
24 Number WLS 4405 to Pharma-RX, Inc. is placed on probation or until Pharmacy Permit Number  
25 WLS 4405 to Pharma-RX, Inc. is reinstated if Pharmacy Permit Number WLS 4405 to Pharma-  
26 RX, Inc. is revoked;

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5 Ordering Khachatur Pogosyan and Pharma-RX, Inc. to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 9/3/15



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

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