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

10 In the Matter of the Accusation Against:
11
12 **NU LIFE PHARMACEUTICALS, INC.,**
MARIA LUZ DE JESUS PACIA,
13 **PRESIDENT**
13026 Saticoy Street #4
North Hollywood, CA 91605
14
15 **Wholesale Permit No. WLS 5709,**
16
17 **and**
LUZ DE JESUS MARQUEZ LIM AKA
18 **MARIA LUZ PACIA**
aka Maria Luz Pacia
19 **13026 Saticoy St. #4**
North Hollywood, CA 91605
20
21 **Designated Representative No. EXC 20854**

Respondents.

Case No. 5463

ACCUSATION

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.
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1 2. On or about March 23, 2011, the Board of Pharmacy issued Wholesale Permit
2 Number WLS 5709 to Nu Life Pharmaceuticals, Inc., Maria Luz De Jesus Pacia, President
3 (Respondents). The Wholesale Permit expired on March 1, 2015, and has not been renewed.

4 3. On or about August 17, 2010, the Board of Pharmacy issued Designated
5 Representative Number EXC 20854 to Luz De Jesus Marquez Lim aka Maria Luz Pacia
6 (Respondents). The Designated Representative was in full force and effect at all times relevant to
7 the charges brought herein and will expire on August 1, 2015, unless renewed.

8 **JURISDICTION**

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

12 5. Section 4300 of the Code states:

13 "(a) Every license issued may be suspended or revoked.

14 "(b) The board shall discipline the holder of any license issued by the board, whose default
15 has been entered or whose case has been heard by the board and found guilty, by any of the
16 following methods:

17 "(1) Suspending judgment.

18 "(2) Placing him or her upon probation.

19 "(3) Suspending his or her right to practice for a period not exceeding one year.

20 "(4) Revoking his or her license.

21 "(5) Taking any other action in relation to disciplining him or her as the board in its
22 discretion may deem proper.

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

28 "(1) Medical or psychiatric evaluation.

- 1 "(2) Continuing medical or psychiatric treatment.
- 2 "(3) Restriction of type or circumstances of practice.
- 3 "(4) Continuing participation in a board-approved rehabilitation program.
- 4 "(5) Abstention from the use of alcohol or drugs.
- 5 "(6) Random fluid testing for alcohol or drugs.
- 6 "(7) Compliance with laws and regulations governing the practice of pharmacy.
- 7 "(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary
- 8 certificate of licensure for any violation of the terms and conditions of probation. Upon
- 9 satisfactory completion of probation, the board shall convert the probationary certificate to a
- 10 regular certificate, free of conditions.
- 11 "(e) The proceedings under this article shall be conducted in accordance with Chapter 5
- 12 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
- 13 shall have all the powers granted therein. The action shall be final, except that the propriety of the
- 14 action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil
- 15 Procedure."

16 6. Section 4169 of the Code states:

17 "(a) A person or entity may not do any of the following:

18 "(1) Purchase, trade, sell, or transfer dangerous drugs or dangerous devices at

19 wholesale with a person or entity that is not licensed with the board as a wholesaler or pharmacy.

20 "(2) Purchase, trade, sell, or transfer dangerous drugs that the person knew or

21 reasonably should have known were adulterated, as set forth in Article 2 (commencing with

22 Section 111250) of Chapter 6 of Part 5 of Division 104 of the Health and Safety Code.

23 "(3) Purchase, trade, sell, or transfer dangerous drugs that the person knew or

24 reasonably should have known were misbranded, as defined in Section 111335 of the Health and

25 Safety Code.

26 "(4) Purchase, trade, sell, or transfer dangerous drugs or dangerous devices after the

27 beyond use date on the label.

28

1 “(5) Fail to maintain records of the acquisition or disposition of dangerous drugs or
2 dangerous devices for at least three years.

3 “(b) Notwithstanding any other provision of law, a violation of this section or of
4 subdivision (c) or (d) of Section 4163 may subject the person or entity that has committed the
5 violation to a fine not to exceed the amount specified in Section 125.9 for each occurrence,
6 pursuant to a citation issued by the board.

7 “(c) Amounts due from any person under this section shall be offset as provided under
8 Section 12419.5 of the Government Code. Amounts received by the board under this section
9 shall be deposited into the Pharmacy Board Contingent Fund.

10 “(d) This section shall not apply to a pharmaceutical manufacturer licensed by the Food and
11 Drug Administration or by the State Department of Public Health.”

12 7. Section 4059.5 of the Code states:

13 “(a) Except as otherwise provided in this chapter, dangerous drugs or dangerous devices
14 may only be ordered by an entity licensed by the board and shall be delivered to the licensed
15 premises and signed for and received by a pharmacist. Where a licensee is permitted to operate
16 through a designated representative, the designated representative shall sign for and receive the
17 delivery.

18 “(b) A dangerous drug or dangerous device transferred, sold, or delivered to a person
19 within this state shall be transferred, sold, or delivered only to an entity licensed by the board, to a
20 manufacturer, or to an ultimate user or the ultimate user's agent.

21 “(c) Notwithstanding subdivisions (a) and (b), deliveries to a hospital pharmacy may be
22 made to a central receiving location within the hospital. However, the dangerous drugs or
23 dangerous devices shall be delivered to the licensed pharmacy premises within one working day
24 following receipt by the hospital, and the pharmacist on duty at that time shall immediately
25 inventory the dangerous drugs or dangerous devices.

26 “(d) Notwithstanding any other provision of law, a dangerous drug or dangerous device
27 may be ordered by and provided to a manufacturer, physician, dentist, podiatrist, optometrist,
28 veterinarian, naturopathic doctor pursuant to Section 3640.7, or laboratory, or a physical therapist

1 acting within the scope of his or her license. A person or entity receiving delivery of a dangerous
2 drug or dangerous device, or a duly authorized representative of the person or entity, shall sign for
3 the receipt of the dangerous drug or dangerous device.

4 “(e) A dangerous drug or dangerous device shall not be transferred, sold, or delivered to a
5 person outside this state, whether foreign or domestic, unless the transferor, seller, or deliverer
6 does so in compliance with the laws of this state and of the United States and of the state or
7 country to which the dangerous drugs or dangerous devices are to be transferred, sold, or
8 delivered. Compliance with the laws of this state and the United States and of the state or
9 country to which the dangerous drugs or dangerous devices are to be delivered shall include, but
10 not be limited to, determining that the recipient of the dangerous drugs or dangerous devices is
11 authorized by law to receive the dangerous drugs or dangerous devices.

12 “(f) Notwithstanding subdivision (a), a pharmacy may take delivery of dangerous drugs and
13 dangerous devices when the pharmacy is closed and no pharmacist is on duty if all of the
14 following requirements are met:

15 “(1) The drugs are placed in a secure storage facility in the same building as the
16 pharmacy.

17 “(2) Only the pharmacist-in-charge or a pharmacist designated by the pharmacist-in-
18 charge has access to the secure storage facility after dangerous drugs or dangerous devices have
19 been delivered.

20 “(3) The secure storage facility has a means of indicating whether it has been entered
21 after dangerous drugs or dangerous devices have been delivered.

22 “(4) The pharmacy maintains written policies and procedures for the delivery of
23 dangerous drugs and dangerous devices to a secure storage facility.”

24 8. Section 4081 of the Code states:

25 “(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs
26 or dangerous devices shall be at all times during business hours open to inspection by authorized
27 officers of the law, and shall be preserved for at least three years from the date of making. A
28 current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary

1 food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital,
2 institution, or establishment holding a currently valid and unrevoked certificate, license, permit,
3 registration, or exemption under Division 2 (commencing with Section 1200) of the Health and
4 Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and
5 Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

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

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

13 9. Section 4105 of the Code states:

14 "(a) All records or other documentation of the acquisition and disposition of dangerous
15 drugs and dangerous devices by any entity licensed by the board shall be retained on the licensed
16 premises in a readily retrievable form.

17 "(b) The licensee may remove the original records or documentation from the licensed
18 premises on a temporary basis for license-related purposes. However, a duplicate set of those
19 records or other documentation shall be retained on the licensed premises.

20 "(c) The records required by this section shall be retained on the licensed premises for a
21 period of three years from the date of making.

22 "(d) Any records that are maintained electronically shall be maintained so that the
23 pharmacist-in-charge, the pharmacist on duty if the pharmacist-in-charge is not on duty, or, in the
24 case of a veterinary food-animal drug retailer or wholesaler, the designated representative on duty,
25 shall, at all times during which the licensed premises are open for business, be able to produce a
26 hard copy and electronic copy of all records of acquisition or disposition or other drug or
27 dispensing-related records maintained electronically.

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1 “(e)(1) Notwithstanding subdivisions (a), (b), and (c), the board, may upon written request,
2 grant to a licensee a waiver of the requirements that the records described in subdivisions (a), (b),
3 and (c) be kept on the licensed premises.

4 “(2) A waiver granted pursuant to this subdivision shall not affect the board's authority
5 under this section or any other provision of this chapter.

6 “(f) When requested by an authorized officer of the law or by an authorized representative
7 of the board, the owner, corporate officer, or manager of an entity licensed by the board shall
8 provide the board with the requested records within three business days of the time the request
9 was made. The entity may request in writing an extension of this timeframe for a period not to
10 exceed 14 calendar days from the date the records were requested. A request for an extension of
11 time is subject to the approval of the board. An extension shall be deemed approved if the board
12 fails to deny the extension request within two business days of the time the extension request was
13 made directly to the board.”

14 10. Section 4307 of the Code states:

15 “Individuals with Denied, Revoked, Suspended, etc. Licenses Prohibited From Pharmacy
16 Ownership or Association with Board Licensed Entities”

17 “(a) Any person who has been denied a license or whose license has been revoked or is
18 under suspension, or who has failed to renew his or her license while it was under suspension, or
19 who has been a manager, administrator, owner, member, officer, director, associate, or partner of
20 any partnership, corporation, firm, or association whose application for a license has been denied
21 or revoked, is under suspension or has been placed on probation, and while acting as the manager,
22 administrator, owner, member, officer, director, associate, or partner had knowledge of or
23 knowingly participated in any conduct for which the license was denied, revoked, suspended, or
24 placed on probation, shall be prohibited from serving as a manager, administrator, owner,
25 member, officer, director, associate, or partner of a licensee as follows:

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

1 wholesale with a person or entity that is not licensed with the Board as a wholesaler or pharmacy.

2 The circumstances are as follows:

3 14. From in or about June 2011 through September 2013, invoice evidence demonstrated
4 that Respondent's purchased dangerous drugs and/or controlled substances from Wesley
5 Pharmacal Co., an unlicensed wholesaler in the state of Pennsylvania on at least 73 different
6 occasions. The following table shows the date and corresponding invoice number that was used
7 for the transaction.
8

Date	Invoice Number
06/22/2011	55138
06/24/2011	55147
06/28/2011	55157
06/29/2011	55163
06/29/2011	55162
07/01/2011	55175
07/05/2011	55182
07/11/2011	55199
07/15/2011	55224
08/03/2011	55303
08/12/2011	55343
08/22/2011	55378
08/23/2011	55381
08/26/2011	55410
09/14/2011	55506
10/05/2011	55651
10/12/2011	55699
10/25/2011	55765
10/27/2011	55785
11/07/2011	55835
11/07/2011	55839
11/15/2011	55875
11/16/2011	55891
12/16/2011	56054
12/22/2011	56071
12/27/2011	56095
12/27/2011	56098
01/06/2012	56156
01/10/2012	56162
01/11/2012	56161
01/24/2012	56245
01/25/2012	56247
01/27/2012	56279
02/03/2012	56321
02/06/2012	56327
02/10/2012	56355
02/17/2012	56403

1	02/23/2012	56432
	03/15/2012	56575
2	03/19/2012	56444
	03/21/2012	56607
3	03/29/2012	56651
	04/03/2012	56675
4	04/04/2012	56692
	04/06/2012	56714
5	04/10/2012	56736
	04/13/2012	56787
6	04/27/2012	56873
	05/03/2012	56938
7	05/03/2012	56920
	05/09/2012	56962
8	05/10/2012	56970
	05/17/2012	57036
9	05/29/2012	57098
	07/10/2012	57342
10	08/03/2012	57558
	10/04/2012	57960
11	11/06/2012	58102
	11/16/2012	58151
12	01/03/2013	58397
	01/09/2013	58451
13	01/09/2013	58447
	01/21/2013	58504
14	02/05/2013	58586
	02/07/2013	58613
15	02/22/2013	58692
	04/19/2013	58964
16	05/03/2013	59043
	07/03/2013	59279
17	07/25/2013	59364
	08/06/2013	59424
18	08/09/2013	59440
19	09/05/2013	59540

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SECOND CAUSE FOR DISCIPLINE

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(Sale and Delivery of Dangerous Drugs)

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15. Respondents are subject to disciplinary action under section 4059.5 subdivision (d), which requires that dangerous drugs or dangerous devices may only be ordered by an entity licensed by the Board and shall be delivered to the licensed premises and signed for and received by a pharmacist. The circumstances are as follows:

16. From in or about June 2011 through September 2013, Respondents allowed promethazine with codeine to be picked up directly from the wholesaler by one individual

1 representing several doctors in violation of pharmacy law. Respondent incorporates by reference
2 paragraphs 12 and 13 above as though set forth in full.

3 **THIRD CAUSE FOR DISCIPLINE**

4 (Records of Acquisition and Disposition)

5 17. Respondents are subject to disciplinary action under sections 4081 subdivision (a) and
6 4105 subdivision (a), which requires a wholesaler to account for all records of acquisition and
7 disposition and the current inventory (as defined by the California Code of Regulations section
8 1718) of all dangerous drugs and devices. The circumstances are as follows:

9 18. From in or about June 2011 through September 2013, Respondents had no records of,
10 and could not account for, an inventory loss of approximately 51,932 ounces of promethazine
11 with codeine. Respondent incorporates by reference paragraphs 12 through 15 above as though
12 set forth in full.

13 **OTHER MATTERS**

14 19. Pursuant to Code section 4307, if discipline is imposed on Wholesale Permit No.
15 WLS 5709, issued to Nu Life Pharmaceuticals, Inc., and Maria Luz De Jesus Pacia, President
16 (Pacia) while acting as the manager, administrator, owner, member, officer, director, associate, or
17 partner of Nu Life Pharmaceuticals, Inc., had knowledge of or knowingly participated in any
18 conduct for which Wholesale Permit No. WLS 5709, issued to Nu Life Pharmaceuticals, Inc. was
19 revoked, suspended or placed on probation, Pacia shall be prohibited from serving as a manager,
20 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
21 Wholesale Permit No. WLS 5709, issued to Nu Life Pharmaceuticals, Inc. is placed on probation
22 or until Wholesale Permit No. WLS 5709, issued to Nu Life Pharmaceuticals, Inc. is reinstated if
23 it is revoked.

24 **DISCIPLINE CONSIDERATIONS**

25 20. To determine the degree of discipline, if any, to be imposed on Respondents,
26 Complainant alleges as follows:

27 a) On or about August 22, 2014, in a prior action, the Board of Pharmacy issued
28 Citation Number CI 2014 62180 to Respondent Nu Life Pharmaceuticals, Inc., for violations of

1 Business and Professions Code section 4169, subdivision (a)(1) (Purchase, trade, sell, or transfer
2 dangerous drugs to unlicensed person or entity). Respondent was ordered to pay \$2000. To date,
3 Respondent has not paid this citation.

4 b) On or about August 22, 2014, in a prior action, the Board of Pharmacy issued
5 Citation Number CI 2014 62181 to Respondent Maria Luz De Jesus Pacia for violations of
6 Business and Professions Code section 4169, subdivision (a)(1) (Purchase, trade, sell, or transfer
7 dangerous drugs to unlicensed person or entity). Respondent was ordered to pay \$1500. To date,
8 Respondent has not paid this citation.

9 **PRAYER**

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

12 1. Revoking or suspending Wholesale Permit Number WLS 5709, issued to Nu Life
13 Pharmaceuticals, Inc., Maria Luz De Jesus Pacia, President;

14 2. Revoking or suspending Designated Representative Number EXC 20854, issued to
15 Luz De Jesus Marquez Lim aka Maria Luz Pacia;

16 3. Prohibiting Maria Luz De Jesus Pacia from serving as a manager, administrator,
17 owner, member, officer, director, associate, or partner of a licensee for five years if Wholesale
18 Permit Number WLS 5709 issued to Nu Life Pharmaceuticals, Inc. is placed on probation or until
19 Wholesale Permit Number WLS 5709 issued to Nu Life Pharmaceuticals, Inc. is reinstated if
20 Wholesale Permit Number WLS 5709 issued to Nu Life Pharmaceuticals, Inc. issued is revoked;

21 4. Ordering Maria Luz De Jesus Pacia aka Luz De Jesus Marquez Lim to pay the Board
22 of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to
23 Business and Professions Code section 125.3; and

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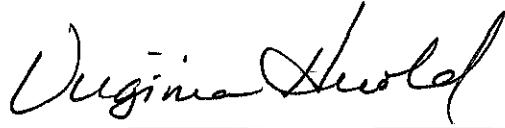
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5. Taking such other and further action as deemed necessary and proper.

DATED: _____

5/3/16



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

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