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

11 In the Matter of the Accusation Against:
12 **ST. MINA PHARMACY, SAMIA HAKIM**
ABADIER, NADER ERIAN ABADIER,
13 **LAWRENCE NADER ABADIER, MARK**
NADER ABADIER, OWNERS
14 8110 Mango Ave., #105
Fontana, CA 92335

Case No. 5723

A C C U S A T I O N

15 **Pharmacy Permit No. PHY 50685,**

16 and

17 **SAMIA HAKIM ABADIER**
8132 Natoma St.
18 Corona, CA 92880

19 **Pharmacist License No. RPH 65420,**

20 Respondents.
21

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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STATUTORY PROVISIONS

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2 8. Section 477 states, in part: “As used in this division: . . . (b) ‘License’ includes
3 certificate, registration or other means to engage in a business or profession regulated by this
4 code.”

5 9. Section 4113 subdivision (c) of the Code states:

6 The pharmacist-in-charge shall be responsible for a pharmacy’s compliance with all state and
7 federal laws and regulations pertaining to the practice of pharmacy.

8 10. Section 4301 of the Code states:

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

13 . . .

14 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting
15 the violation of or conspiring to violate any provision or term of this chapter or of the
16 applicable federal and state laws and regulations governing pharmacy, including
17 regulations established by the board or by any other state or federal regulatory agency.

18 11. Section 4307 of the Code states:

19 (a) Any person who has been denied a license or whose license has been revoked or is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

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

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

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

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

10 **REGULATORY PROVISIONS**

11 12. California Code of Regulations, title 16, section 1714 subdivisions (b) and (d), state:

12 (b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures,
13 and equipment so that drugs are safely and properly prepared, maintained, secured and
14 distributed. The pharmacy shall be of sufficient size and unobstructed area to
15 accommodate the safe practice of pharmacy.

16 ...

17 (d) Each pharmacist while on duty shall be responsible for the security of the
18 prescription department, including provisions for effective control against theft or
19 diversion of dangerous drugs and devices, and records for such drugs and devices.
20 Possession of a key to the pharmacy where dangerous drugs and controlled substances
21 are stored shall be restricted to a pharmacist.

22 **CONTROLLED SUBSTANCE / DANGEROUS DRUG**

23 13. Section 4021 of the Code states, in pertinent part:

24 "Controlled substances: means any substance listed in Chapter 2 (commencing with Section
25 11053) of Division 10 of the Health and Safety Code."

26 14. Section 4022 of the Code states:

27 'Dangerous drug' or 'dangerous device' means any drug or device unsafe for self-use
28 in humans or animals, and includes the following:

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

(b) Any device that bears the statement: 'Caution: federal law restricts this device to
sale by or on the order of a _____,' 'Rx only,' or words of similar import, the
blank to be filled in with the designation of the practitioner licensed to use or order use
of the device.

(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.

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1 15. Code of Federal Regulations, title 21, section 1308.12, states:

2 (a) Schedule II shall consist of the drugs and other substances, by whatever official
3 name, common or usual name, chemical name, or brand name designated, listed in this
4 section. Each drug or substance has been assigned the Controlled Substances Code
5 Number set forth opposite it.

6 (b) Substances, vegetable origin or chemical synthesis. Unless specifically excepted or
7 unless listed in another schedule, any of the following substances whether produced
8 directly or indirectly by extraction from substances of vegetable origin, or
9 independently by means of chemical synthesis, or by a combination of extraction and
10 chemical synthesis:

11 (1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or
12 opiate excluding apomorphine, thebaine-derived butorphanol, dextrophan, nalbuphine,
13 nalmefene, naloxegol, naloxone, and naltrexone, and their respective salts, but
14 including the following:

15 . . .

16 (vi) Hydrocodone

17 16. "Hydrocodone/Acetaminophen" or "HC/APAP", with trade names of Norco, Lortab,
18 and Vicodin, are Schedule III controlled substances pursuant to Health and Safety Code section
19 11056(e)(4), and are categorized as dangerous drugs pursuant to section 4022. Effective October
20 6, 2014, federal law rescheduled hydrocodone/acetaminophen to a schedule II controlled
21 substance, Code of Federal Regulations, title 21, section 1308.12, subdivision, (b)(1)(vi).

22 COST RECOVERY

23 17. Section 125.3 provides that the Board may request the administrative law judge to
24 direct a licentiate found to have committed a violation or violations of the licensing act to pay a
25 sum not to exceed the reasonable costs of the investigation and enforcement of the case, with
26 failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a
27 case settles, recovery of investigation and enforcement costs may be included in a stipulated
28 settlement.

29 FACTUAL ALLEGATIONS

30 18. Beginning on or about October 3, 2011, Respondent Samia Abadier became the
31 pharmacist-in-charge ("PIC") of Respondent St. Mina Pharmacy, located in Fontana, CA.
32 Respondent Samia Abadier is also the Chief Executive Officer and owner of 30 percent of the
33 outstanding shares; Nader Erian Abadier is the Director and owner of 30 percent of the

1 outstanding shares; Lawrence Nader Abadier is the Secretary and owner of 20 percent of the
2 outstanding shares; and Mark Mader Abadier is the Treasurer/Chief Financial Officer of
3 Respondent St. Mina Pharmacy.

4 19. From June 13, 2013, until November 5, 2014, Respondent St. Mina Pharmacy did not
5 maintain adequate security for controlled substances, and as a result, there was a loss of 54,226
6 tablets of controlled substance HC/APAP 10/325 mg, aka Norco, in Respondent St. Mina
7 Pharmacy's inventory.

8 20. Noemi Acevedo ("Acevedo") was employed as a pharmacy technician¹ with St. Mina
9 Pharmacy from December 12, 2012 to November 5, 2014.

10 21. On or about October 31, 2014, while the pharmacist on duty left to use the restroom,
11 video surveillance recorded Acevedo taking a 1,000-tablet-count bottle of Norco, and placing it
12 under the bumble bee costume she was wearing.

13 22. On or about November 5, 2014, Respondent Samia Abadier discovered a loss of two
14 1,000-tablet-count bottles of Norco, and reported the theft to the Fontana Police Department.

15 23. On or about November 5, 2014, a Fontana police officer contacted Acevedo at her
16 residence. Acevedo admitted to taking the bottle of Norco on October 31, 2014. She further
17 admitted that she gave the bottle of Norco to her aunt to take to Mexico and that her aunt was
18 supposed to give her \$300 for the bottle.

19 24. On or about November 14, 2014, the Board received notification from Respondent
20 Samia Abadier that Acevedo stole 14,000 tablets of Norco from Respondent St. Mina Pharmacy.

21 25. On or about December 7, 2014, Respondent Samia Abadier contacted the Fontana
22 Police department to correct her previous statement in that fourteen 1000-tablet-count bottles of
23 Norco was taken from Respondent St. Mina Pharmacy and was worth approximately \$25,000.

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27 ¹ Acevedo's Pharmacy Technician Registration No. TCH 81339 was revoked pursuant to a
28 Default Decision and Order which became effective on February 19, 2016, in Board of Pharmacy
Case No. 5099, *In the Matter of the First Amended Accusation Against Noemi Acevedo*.

1 or partner of a licensee for five years if Pharmacy Permit Number PHY 50685 is placed on
2 probation or until Pharmacy Permit Number PHY 50685 is reinstated if it is revoked.

3 30. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
4 PHY 50685 issued to Respondent St. Mina Pharmacy while Respondents Samia Hakim Abadier,
5 Nader Erian Abadier, Lawrence Naded Abadier, and Mark Nader Abadier served as officers and
6 owners, and had knowledge of or knowingly participated in any conduct for which the licensee
7 was disciplined, Samia Hakim Abadier, Nader Erian Abadier, Lawrence Naded Abadier, and
8 Mark Nader Abadier shall be prohibited from serving as a manager, administrator, owner,
9 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
10 Number PHY 50685 is placed on probation or until Pharmacy Permit Number PHY 50685 is
11 reinstated if it is revoked.

12 **PRAYER**

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

15 1. Revoking or suspending Pharmacy Permit Number PHY 50685, issued to St. Mina
16 Pharmacy,

17 2. Revoking or suspending Pharmacist License Number RPH 65420, issued to Samia
18 Hakim Abadier;

19 3. Prohibiting St. Mina Pharmacy from serving as a manager, administer, owner,
20 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
21 Number PHY 50685 is placed on probation or until Pharmacy Permit Number PHY 50685 is
22 reinstated if Pharmacy Permit Number PHY 50685 issued to St. Mina Pharmacy is revoked;

23 4. Prohibiting Samia Hakim Abadier from serving as a manager, administer, owner,
24 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
25 Number PHY 50685 is placed on probation or until Pharmacy Permit Number PHY 50685 is
26 reinstated if Pharmacy Permit Number PHY 50685 issued to St. Mina Pharmacy is revoked;

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1 5. Prohibiting Nader Erian Abadier from serving as a manager, administer, owner,
2 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
3 Number PHY 50685 is placed on probation or until Pharmacy Permit Number PHY 50685 is
4 reinstated if Pharmacy Permit Number PHY 50685 issued to St. Mina Pharmacy is revoked;

5 6. Prohibiting Lawrence Naded Abadier from serving as a manager, administer, owner,
6 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
7 Number PHY 50685 is placed on probation or until Pharmacy Permit Number PHY 50685 is
8 reinstated if Pharmacy Permit Number PHY 50685 issued to St. Mina Pharmacy is revoked;

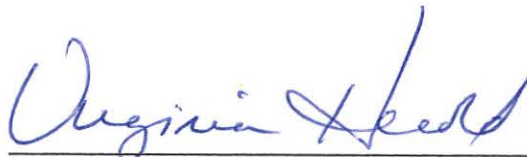
9 7. Prohibiting Mark Nader Abadier from serving as a manager, administer, owner,
10 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
11 Number PHY 50685 is placed on probation or until Pharmacy Permit Number PHY 50685 is
12 reinstated if Pharmacy Permit Number PHY 50685 issued to St. Mina Pharmacy is revoked;

13 8. Ordering St. Mina Pharmacy and Samia Hakim Abadier to pay the Board of
14 Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to
15 Business and Professions Code section 125.3; and,

16 9. Taking such other and further action as deemed necessary and proper.

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18
19 DATED: _____

6/10/16



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

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