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7

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

11 In the Matter of the Accusation Against:

Case No. 5802

12 **ST. ANTONY PHARMACY, INC., dba**
13 **ST. ANTONY PHARMACY; EMAD**
14 **FOUAD HANNA-MICHAEL, President**
310 E. Grand Ave., #105
15 El Segundo, CA 90245

A C C U S A T I O N

16 Pharmacy Permit No. PHY 47523

17 **AND**

18 **EMAD FOUAD HANNA-MICHAEL**
23235 Doris Way
19 Torrance, CA 90505

20 Pharmacist License No. RPH 52174

21 Respondent.
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23 Complainant alleges:

24 **PARTIES**

25 1. Virginia Harold (Complainant) brings this Accusation solely in her official capacity
26 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

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1 has been a manager, administrator, owner member, officer, director, associate, or partner of any
2 partnership, corporation, firm, or association whose application for a license has been denied or
3 revoked, is under suspension or has been placed on probation, and while acting as the manager,
4 administrator, owner, member, officer, director, associate, or partner had knowledge or
5 knowingly participated in any conduct for which the license was denied, revoked, suspended, or
6 placed on probation, shall be prohibited from serving as a manager, administrator, owner,
7 member, officer, director, associate, or partner of a licensee as follows:

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

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

12 11. Section **4113** of the Code provides at sub-division (c):

13 The pharmacist-in-charge shall be responsible for a pharmacy's compliance with the state
14 and federal laws and regulations pertaining to the practice of pharmacy.

15 12. Section **4081** of the Code states:

16 "(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs
17 or dangerous devices shall be at all times during business hours open to inspection by authorized
18 officers of the law, and shall be preserved for at least three years from the date of making. A
19 current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary
20 food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital,
21 institution, or establishment holding a currently valid and unrevoked certificate, license, permit,
22 registration, or exemption under Division 2 (commencing with Section 1200) of the Health and
23 Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and
24 Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

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

			HSC 11055(b)(1)	severe pain	
1	Percocet	Oxycodone/APAP	Yes	Yes, CII HSC 11055(b)(1)	Moderate to severe pain
2	Vicodin	Hydrocodone/APAP	Yes	Yes, CII HSC 11055(b)(1)	Moderate to severe pain
3	Norco	Hydrocodone/APAP	Yes	Yes, CII HSC 11055(b)(1)	Moderate to severe pain
4	Adderal	Amphetamine/ Dextroamphetamine	Yes	Yes, CII HSC 11055(d)(3)	Stimulant or Diet Suppressant
5	Adderall XR	Dextroamphetamine /Amphetamine	Yes	Yes, CII HSC 11055(d)(3)	Stimulant or Diet Suppressant
6	Nucynta	Tapentadol	Yes	Yes, CII HSC 11055	Moderate to severe pain
7	Suboxone	Buprenorphine- Naloxone SL	Yes	Yes, CII HSC 11056	Opioid Dependency
8	Soma	Carisoprodol	Yes	Yes, CIV HSC 11057	Muscle Relaxant
9	Ambien	Zolpidem	Yes	Yes, CIV HSC 11057 (d)	Insomnia
10	Xanax	Alprazolam	Yes	Yes, CIV HSC 11057 (d)	Anxiety
11	Phenergan w/Codeine	Promethazine w/Codeine Syrup	Yes	Yes, CV HSC 11058 (c)(1)	Cough
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14					

FACTS COMMON TO ALL CAUSES FOR DISCIPLINE

17. From March 17, 2006 and at all times relevant herein, Respondent Hanna-Michael was the Pharmacist-in-Charge of St. Antony Pharmacy, a retail pharmacy owned and operated by Respondent Pharmacy, located in the city of El Segundo, CA.

18. Between approximately February 24, 2008 and August 17, 2015, E.Yasin was employed full-time as a pharmacy technician at Respondent Pharmacy. Her employment was terminated on August 17, 2015.

A. Yasin's First Arrest - May 2015

On or about May 3, 2015, Yasin, was arrested by El Segundo Police Department officers for driving under the influence (DUI). During a booking search, she was found to be in possession of several bottles of prescription drugs, for which she had prescriptions. She was also in possession of numerous controlled medications for which she did NOT have prescriptions.¹

¹ According to the police report of Yasin's May 3, 2015 arrest, at the time of her arrest, she was in possession of the following controlled medications for which she did not have a prescription:

1. Adderall XR 15 mg (1 pill)

(continued...)

1 **B. Yasin’s Second Arrest – August 2015**

2 On or about August 18, 2015, Yasin was arrested for embezzlement from Respondent
3 Pharmacy, based on a complaint filed by Respondent Hanna-Michael, who provided the arresting
4 officers with videotape from security surveillance cameras at the pharmacy – showing Yasin
5 taking money from the cash register.

6 C. At the time of her arrest, Yasin admitted that she had been stealing cash from
7 the pharmacy (“about \$100 almost every shift”) for about 3 years. She also admitted stealing
8 prescription pills from the pharmacy for personal use, specifically referencing Oxycodone, Soma,
9 Norco and Adderall – indicating she had taken small amounts (about 50 tablets) of the
10 medications referenced.

11 **19. DEA Report of Theft or Loss of Controlled Substances**

12 On or about September 1, 2015, the Board of Pharmacy received a “*DEA Report of*
13 *Theft or Loss of Controlled Substances*” report pursuant to Business and Professions Code section
14 4104 from Respondent Hanna-Michael, advising the Board of circumstances leading to Yasin’s
15 termination, and that on August 22, 2015, Respondent Hanna-Michael had conducted a complete
16 inventory and audited the Pharmacy’s purchase invoices and filled prescriptions, and discovered
17 that a large quantity of tablets/capsules were missing as of the inventory date and could not be
18 accounted for. Pursuant to Respondents’ revised “*DEA Report of Theft or Loss of Controlled*
19 *Substances*” report dated September 25, 2015, Respondents reported to the Board that the
20 following drugs were missing from inventory of Respondent Pharmacy, and could not be
21 accounted for:

22 _____
(...continued)

- 23 2. Acetaminophen and Oxycodone 325 mg/ 7.5 mg (1 orange pill)
24 3. Acetaminophen and Oxycodone 325 mg/ 10 mg (3 white pills)
25 4. Acetaminophen and Oxycodone 325 mg/ 10 mg (11 yellow pills)
26 5. Oxycodone Hydrochloride 20 mg (4 pills)
27 6. Amphetamine and dextroamphetamine 20 mg (3 orange pills)
28 7. Amphetamine and dextroamphetamine 30 mg (4 orange pills)
 8. Amphetamine and dextroamphetamine 20 mg (5 pink pills)
 9. Amphetamine and dextroamphetamine 30 mg (25 pink pills)
 10. Amphetamine and dextroamphetamine 15 mg (5 orange pills)

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	TRADE NAME	QUANTITY LOSS/MISSING
1.	Morphine Sulfate 1R 30mg	-53
2.	Oxymorphone 10mg tab	-129
3.	Oxycodone 15mg tab	-5,482
4.	Hydrocodone/APAP 5-500 tab	-4,871
5.	Oxycodone/APAP 5-325 tab	-892
6.	Oxycodone/APAP 7.5-325 tab	-454
7.	Oxycodone 5mg tab	-466
8.	Oxycodone 30mg tab	-5,012
9.	Amphetamine 15mg tab	-100
10.	Hydrocodone/APAP 7.5-500 tab	-250
11.	Promethazine-Codeine Syrup	-6,735ml
12.	Carisoprodol 350mg tab	-12,251
13.	Hydrocodone/APAP 10-325	-37,782
14.	Hydrocone/APAP 5-325	-1,186
15.	Hydrocodone/APAP 7.5-325	-11,951
16.	Zolpidem 10mg tab	-3,957
17.	Oxycodone 20mg tab	-1,720
18.	Hydromorphone 8mg tab	-248
19.	Morphine Sulfate 30 mg ER	-254
20.	Nucynta 50 mg tab	-80
21.	Hydrocodone/APAP 7.5-750	-6,296
22.	Oxycodone/APAP 10-325	-5,846
23.	Adderall XR 30 mg capsule	-69
24.	Alprazolam 0.5mg tab	-6397
25.	Alprazolam 2mg tab	-645

26.	Amphetamine 10mg tab	-535
27.	Amphetamine 20mg tab	-1,940
28.	Amphetamine 30 mg tab	-2629
29.	Buprenorphine/Naloxone 2/0.5	-545
30.	Oxycodone 10mg tab	-605

FIRST CAUSE FOR DISCIPLINE

(Failure to Maintain Security of Pharmacy)

20. Respondents are subject to disciplinary action under section 4300 for unprofessional conduct as defined in section 4301, subdivision (o), in conjunction with section 4113, 4005 and California Code of Regulations, title 16, section 1714, subdivision (b), for failing to maintain pharmacy facilities, space, fixtures, and equipment so that drugs are safely maintained and secured. Respondents failed to secure and maintain pharmacy facilities from diversion, theft or other lapses resulting in missing inventory - so that between May 1, 2013 and August 17, 2015, the disposition of more than 50,000 controlled substance tablets (as listed at paragraph 18, above) could not be accounted for.

SECOND CAUSE FOR DISCIPLINE

(Gross Negligence)

21. Respondents are subject to disciplinary action under section 4300 for unprofessional conduct as defined in section 4301, subdivision (c), and 4113, in that Respondents committed gross negligence in maintaining and managing Respondent Pharmacy so that between May 1, 2013 and August 17, 2015, the disposition of more than 50,000 controlled substance tablets (listed at paragraph 18, above) could not be accounted for.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain Complete and Accurate Records)

22. Respondents are subject to disciplinary action under section 4300 for unprofessional conduct as defined in section 4301, subdivisions (j) and (o), in conjunction with section 4113, 4081 subdivision (a), 4105 and California Code of Regulations, title 16, section

1 1718 for failure to maintain a complete and accurate record for all controlled
2 substances/dangerous drugs received, sold, or otherwise disposed of by them. Between May 1,
3 2013 and August 17, 2015, Respondents were unable to account for disposition of more than
4 50,000 controlled substance tablets (listed at paragraph 18, above).

5 **OTHER MATTERS**

6 23. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
7 PHY 47523 issued to St. Antony Pharmacy, Inc., St. Antony Pharmacy, Inc. shall be prohibited
8 from serving as a manager, administrator, owner, member, officer, director, associate, or partner
9 of a licensee for five years if Pharmacy Permit Number PHY 47523 is placed on probation or
10 until Pharmacy Permit Number PHY 47523 is reinstated if it is revoked.

11 24. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
12 PHY 47523 issued to St. Antony Pharmacy, Inc. while Emad Fouad Hanna-Michael has been an
13 officer and/or owner and had knowledge of or knowingly participated in any conduct for which
14 the licensee was disciplined, he shall be prohibited from serving as a manager, administrator,
15 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy
16 Permit Number PHY 47523 is placed on probation or until Pharmacy Permit Number PHY 47523
17 is reinstated if it is revoked.

18 **PRAYER**

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

21 1. Revoking or suspending Pharmacy Permit Number PHY 47523, issued to St. Antony
22 Pharmacy, Inc., dba St. Antony Pharmacy; Emad Fouad Hanna-Michael (President);

23 2. Revoking or suspending Pharmacist License Number RPH 52174, issued to Emad
24 Fouad Hanna-Michael;

25 3. Prohibiting St. Antony Pharmacy, Inc. from serving as a manager, administrator,
26 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy
27 Permit number PHY 47523 is placed on probation or until Pharmacy Permit Number PHY 47523
28 is reinstated if Pharmacy Permit Number 47523 issued to St. Antony Pharmacy, Inc. is revoked;

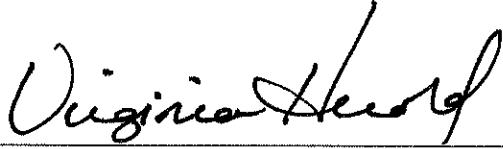
1 4. Prohibiting Emad Fouad Hanna-Michael from serving as a manager, administrator,
2 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy
3 Permit Number PHY 47523 is placed on probation or until Pharmacy Permit Number PHY 47523
4 is reinstated if Pharmacy Permit Number 47523 issued to St. Antony Pharmacy, Inc. is revoked;

5 5. Ordering Respondents St. Antony Pharmacy, Inc., dba St. Antony Pharmacy; Emad
6 Fouad Hanna-Michael (President) and Emad Fouad Hanna-Michael to pay the Board of
7 Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to
8 Business and Professions Code section 125.3;

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

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DATED: 7/30/16



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

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