

1 XAVIER BECERRA
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 NANCY A. KAISER
Deputy Attorney General
4 State Bar No. 192083
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-5794
6 Facsimile: (213) 897-2804
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 5837

12 **BRIGHTON WAY PHARMACY INC. AND**
13 **LUCENA HOLDINGS LLC**
14 **DBA WEST WILSHIRE PHARMACY,**
15 **SHAHROKH MAKHANI, PRES.,**
16 **PIC SHAHROKH MAKHANI (6/8/92 to 12/8/14),**
17 **PIC AISAN KHALILIAN**
18 **F.K.A. AISAN ZARGARIAN (12/2/14 to 1/29/16)**
19 6333 Wilshire Blvd.
Los Angeles, CA 90048
20 **Pharmacy Permit License No. PHY 37949,**

A C C U S A T I O N

21 **SHAHROKH MAKHANI**
22 526 N. Foothill Rd.
23 Beverly Hills, CA 90210
24 **Pharmacist License No. RPH 35054,**

25 **and**

26 **AISAN KHALILIAN**
27 **FKA AISAN ZARGARIAN**
28 PO Box 25285
Los Angeles, CA 90025
Pharmacist License No. RPH 70509

Respondents.

1 Complainant alleges:

2 **PARTIES**

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

5 2. On or about June 8, 1992, the Board of Pharmacy issued Pharmacy Permit Number
6 PHY 37949 to Brighton Way Pharmacy Inc. and Lucena Holdings LLC dba West Wilshire
7 Pharmacy (Respondent Pharmacy). The Board's records reflect that West Wilshire Pharmacy is
8 under corporate ownership with the majority (90%) held by Brighton Way Pharmacy, Inc. and the
9 minority (10%) by Lucena Holdings LLC. Brighton Way Pharmacy, Inc. is a California
10 corporation and Lucena Holdings LLC is a Delaware limited liability company. The Board's
11 records reflect that Shahrokh Makhani was the President of Brighton Way Pharmacy, Inc. from
12 June 8, 1992 to January 29, 2016.¹ Shahrokh Makhani, RPH 35054, was the Pharmacist-in-
13 Charge from June 8, 1992 to December 8, 2014. Aisan Khalilian fka Aisan Zargarian, RPH
14 70509, was the Pharmacist-in-Charge from December 2, 2014 to January 29, 2016. The
15 Pharmacy Permit expired on January 29, 2016, and was cancelled on April 7, 2016.

16 3. On or about December 11, 1979, the Board of Pharmacy issued Original Pharmacist
17 License Number RPH 35054 to Shahrokh Makhani (Respondent Makhani). The Pharmacist
18 License was in full force and effect at all times relevant to the charges brought herein and will
19 expire on September 30, 2018, unless renewed.

20 4. On or about March 14, 2014, the Board of Pharmacy issued Original Pharmacist
21 License Number RPH 70509 to Aisan Khalilian fka Aisan Zargarian (Respondent Zargarian).
22 The Pharmacist License was in full force and effect at all times relevant to the charges brought
23 herein and will expire on May 31, 2019, unless renewed.

24 ///

25 ///

26 ¹ On January 6, 2015, Brighton Way Pharmacy, Inc. filed an Amended Statement of
27 Information, which listed Sherri D. Leon as the Chief Executive Officer, Secretary and Financial
28 Officer and listed Sherri D. Leon, Gregory Blaszczyński, and James Fleming as the only directors.
Shahrokh Makhani was not listed as an officer or as a director of Brighton Way Pharmacy, Inc.

1 JURISDICTION

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

5 6. Section 4300 of the Code provides, in part, that every license issued by the Board is
6 subject to discipline, including suspension or revocation.

7 7. Section 4300.1 of the Code states:

8 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
9 operation of law or by order or decision of the board or a court of law, the placement of a license
10 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
11 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
12 proceeding against, the licensee or to render a decision suspending or revoking the license."

13 8. Section 4302 of the Code states:

14 "The board may deny, suspend, or revoke any license of a corporation where conditions
15 exist in relation to any person holding 10 percent or more of the corporate stock of the
16 corporation, or where conditions exist in relation to any officer or director of the corporation that
17 would constitute grounds for disciplinary action against a licensee."

18 9. Section 4113 of the Code states, in part:

19 "(c) The pharmacist-in-charge shall be responsible for a pharmacy's compliance with all
20 state and federal laws and regulations pertaining to the practice of pharmacy."

21 STATUTORY AND REGULATORY AUTHORITY

22 10. Section 4301 of the Code states:

23 "The board shall take action against any holder of a license who is guilty of unprofessional
24 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is
25 not limited to, any of the following:

26 (a) Procurement of a license by fraud or misrepresentation.

27 ...

28 (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or

1 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
2 whether the act is a felony or misdemeanor or not.

3 (g) Knowingly making or signing any certificate or other document that falsely represents
4 the existence or nonexistence of a state of facts.

5 ...

6 (j) The violation of any of the statutes of this state, of any other state, or of the United
7 States regulating controlled substances and dangerous drugs.

8 ...

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

13 11. Section 4307 of the Code states, in pertinent part:

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

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

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

1 12. Section 4201 of the Code states:

2 “(a) Each application to conduct a pharmacy, wholesaler, third-party logistics provider,
3 veterinary food-animal drug retailer, or outsourcing facility shall be made on a form furnished by
4 the board and shall state the name, address, usual occupation, and professional qualifications, if
5 any, of the applicant. If the applicant is other than a natural person, the application shall state the
6 information as to each person beneficially interested therein or any person with management or
7 control over the license.

8 “(b) As used in this section, and subject to subdivision (c), the term "person beneficially
9 interested" means and includes:

10 (1) If the applicant is a partnership or other unincorporated association, each partner or
11 member.

12 (2) If the applicant is a corporation, each of its officers, directors, and stockholders,
13 provided that a natural person shall not be deemed to be beneficially interested in a nonprofit
14 corporation.

15 (3) If the applicant is a limited liability company, each officer, manager, or member.

16 (c) If the applicant is a partnership or other unincorporated association, a limited liability
17 company, or a corporation, and the number of partners, members, or stockholders, as the case may
18 be, exceeds five, the application shall so state, and shall further state the information required by
19 subdivision (a) as to each of the five partners, members, or stockholders who own the five largest
20 interests in the applicant entity. Upon request by the executive officer, the applicant shall furnish
21 the board with the information required by subdivision (a) as to partners, members, or
22 stockholders not named in the application, or shall refer the board to an appropriate source of that
23 information.

24 (d) The application shall contain a statement to the effect that the applicant has not been
25 convicted of a felony and has not violated any of the provisions of this chapter. If the applicant
26 cannot make this statement, the application shall contain a statement of the violation, if any, or
27 reasons which will prevent the applicant from being able to comply with the requirements with
28 respect to the statement.

1 (e) Upon the approval of the application by the board and payment of the fee required by
2 this chapter for each pharmacy, wholesaler, third-party logistics provider, or veterinary food-
3 animal drug retailer, the executive officer of the board shall issue a license to conduct a pharmacy,
4 wholesaler, third-party logistics provider, veterinary food-animal drug retailer, or outsourcing
5 facility if all of the provisions of this chapter have been complied with.

6 (f) Notwithstanding any other law, the pharmacy license shall authorize the holder to
7 conduct a pharmacy. The license shall be renewed annually and shall not be transferable.

8 ...

9 (j) For licenses referred to in subdivisions (f), (g), (h), and (i), any change in the proposed
10 beneficial ownership interest shall be reported to the board within 30 days thereafter upon a form
11 to be furnished by the board.”

12 13. Section 4076 of the Code states, in part:

13 “(a) A pharmacist shall not dispense any prescription except in a container that meets the
14 requirements of state and federal law and is correctly labeled with all of the following:

15 ...

16 (11)(A) Commencing January 1, 2006, the physical description of the dispensed
17 medication, including its color, shape, and any identification code that appears on the tablets or
18 capsules, except as follows:

19 (i) Prescriptions dispensed by a veterinarian.

20 (ii) An exemption from the requirements of this paragraph shall be granted to a new drug
21 for the first 120 days that the drug is on the market and for the 90 days during which the national
22 reference file has no description on file.

23 (iii) Dispensed medications for which no physical description exists in any commercially
24 available database.”

25 14. Section 4112 of the Code

26 “(a) Any pharmacy located outside this state that ships, mails, or delivers, in any manner,
27 controlled substances, dangerous drugs, or dangerous devices into this state shall be considered a
28 nonresident pharmacy.

1 by Philidor Rx Services, and share prescription information with Philidor Rx Services through a
2 common electronic file pharmacy computer system, despite the fact the Board had denied Philidor
3 Rx Services' Non-Resident Pharmacy Application on May 14, 2014.

4 18. On or about February 20, 2015, Respondents Pharmacy and Makhani filed a
5 Community Pharmacy Permit Application with the Board to transfer the ownership of the
6 pharmacy permit issued to Respondent Pharmacy to Lucena Holdings LLC, and failed to disclose
7 that Philidor Rx Services was the parent corporation of Lucena Holdings LLC. Respondent
8 Pharmacy and Makhani falsely marked "No" in response to the question of "Is the parent
9 corporation or limited liability company a subsidiary?" In fact, Lucena Holdings LLC was a
10 subsidiary of Philidor Rx Services.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Obtaining License by Fraud or Misrepresentation)**

13 19. Respondent Pharmacy is subject to disciplinary action under section 4301,
14 subdivisions (a), (g) and (o), in that Respondent Pharmacy obtained its license by fraud or
15 misrepresentation. Complainant refers to, and by this reference incorporates, the allegations set
16 forth above in paragraphs 16 through 18, as though set forth fully.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Providing False Information on Licensure Application)**

19 20. Respondent Pharmacy is subject to disciplinary action under section 4301,
20 subdivisions (f), (g) and (o), of the Code, for violating section 4201 of the Code and California
21 Code of Regulations, title 16, section 1709, in that Respondent Pharmacy provided false
22 information on its licensure application. Complainant refers to, and by this reference
23 incorporates, the allegations set forth above in paragraphs 16 through 19, as though set forth fully.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Unlicensed Non-Resident Pharmacy)**

26 21. Respondents Pharmacy, Makhani and Zargarian are subject to disciplinary action
27 under section 4301, subdivision (o), of the Code, in that Respondent Pharmacy operated as an
28 unlicensed Non-Resident Pharmacy. The circumstances are as follows:

1 a. From as early as October 20, 2014, to date, while Respondent Makhani and
2 Respondent Zargarian served as the pharmacist-in-charge of Respondent Pharmacy, respectively,
3 Respondents Pharmacy, Makhani, and Zargarian allowed Philidor Rx Services, a non-California
4 licensed pharmacy, located in the state of Pennsylvania, to operate West Wilshire Pharmacy as
5 part of its corporation, store and dispense dangerous drugs purchased by Philidor Rx Services, and
6 share prescription information with Philidor Rx Services through a common electronic file
7 pharmacy computer system. Complainant refers to, and by this reference incorporates, the
8 allegations set forth above in paragraphs 16 through 20, as though set forth fully.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct:**

11 **Violating or Attempting to Violate State or Federal Laws Governing Pharmacy)**

12 22. Respondents Zargarian and Makhani are subject to disciplinary action under sections
13 4301, subdivision (o), and 4113, subdivision (c), of the Code, on the ground of unprofessional
14 conduct, in that invoices, prescription records, and pharmacy management documents obtained
15 from West Wilshire Pharmacy, demonstrate that from as early as October 20, 2014, to date, where
16 Respondent Makhani served as the pharmacist-in-charge from June 8, 1992, to December 2, 2014,
17 and Respondent Zargarian served as the pharmacist-in-charge from December 2, 2014 to January
18 29, 2016, the pharmacy allowed Philidor Rx Services, a non-California licensed pharmacy located
19 in the state of Pennsylvania, to operate West Wilshire Pharmacy as part of its corporation, store
20 and dispensed dangerous medications purchased by Philidor Rx Services and share prescription
21 information with Philidor Rx Services. Complainant refers to, and by this reference incorporates,
22 the allegations set forth above in paragraphs 16 through 21, as though set forth fully.

23 **FIFTH CAUSE FOR DISCIPLINE**

24 **(Non-Conforming Prescription Labels)**

25 23. Respondents Pharmacy and Zargarian are subject to disciplinary action under section
26 4301, subdivision (o), of the Code, for violating section 4076, subdivision (a)(1)(A) of the Code,
27 in that, while Respondent Zargarian was the Pharmacist-in-Charge, Respondent Pharmacy used
28 non-conforming prescription labels. The circumstances are as follows:

1 a. On or about May 14, 2015, a Board inspection of Respondent Pharmacy's facility,
2 located at 6333 West Wilshire Blvd., Los Angeles, CA 90048, revealed that the pharmacy used
3 the pharmacy computer prescription processing software Carepoint to generate prescription labels
4 for the pharmacy's prescriptions, which were processed by Philidor Rx Services, a non-California
5 licensed pharmacy, located in the state of Pennsylvania. The prescription labels generated from
6 the Carepoint computer system did not include the physical description of the medication being
7 dispensed, as required.

8 **OTHER MATTERS**

9 24. Pursuant to section 4307 of the Code, if discipline is imposed on Pharmacy Permit
10 Number PHY 37949 issued to Brighton Way Pharmacy Inc. and Lucena Holdings LLC dba West
11 Wilshire Pharmacy, Brighton Way Pharmacy Inc. shall be prohibited from serving as a manager,
12 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
13 Pharmacy Permit Number PHY 37949 is placed on probation or until Pharmacy Permit Number
14 PHY 49140 is reinstated if it is revoked.

15 25. Pursuant to section 4307 of the Code, if discipline is imposed on Pharmacy Permit
16 Number PHY 37949 issued to Brighton Way Pharmacy Inc. and Lucena Holdings LLC dba West
17 Wilshire Pharmacy, Lucena Holdings LLC shall be prohibited from serving as a manager,
18 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
19 Pharmacy Permit Number PHY 37949 is placed on probation or until Pharmacy Permit Number
20 PHY 49140 is reinstated if it is revoked.

21 26. Pursuant to section 4307 of the Code, if discipline is imposed on Pharmacy Permit
22 Number PHY 37949 issued to Brighton Way Pharmacy Inc. and Lucena Holdings LLC dba West
23 Wilshire Pharmacy while Shahrokh Makhani was an officer and/or owner and had knowledge of
24 or knowingly participated in any conduct for which the licensee was disciplined, Shahrokh
25 Makhani shall be prohibited from serving as a manager, administrator, owner, member, officer,
26 director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 37949
27 is placed on probation or until Pharmacy Permit Number PHY 37949 is reinstated if it is revoked.

28

PRAYER

1
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Pharmacy issue a decision:

4 1. Revoking or suspending Pharmacy Permit Number PHY 37949, issued to Brighton
5 Way Pharmacy Inc. and Lucena Holdings LLC dba West Wilshire Pharmacy;

6 2. Revoking or suspending Original Pharmacist License Number RPH 35054 issued to
7 Shahrokh Makhani;

8 3. Revoking or suspending Original Pharmacist License Number RPH 70509 issued to
9 Aisan Khalilian fka Aisan Zargarian;

10 4. Prohibiting Brighton Way Pharmacy Inc. from serving as a manager, administrator,
11 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy
12 Permit Number PHY 37949 is placed on probation or until Pharmacy Permit Number PHY xxxis
13 reinstated if Pharmacy Permit Number 37949 issued to Brighton Way Pharmacy Inc. and Lucena
14 Holdings LLC dba West Wilshire Pharmacy is revoked;

15 5. Prohibiting Lucena Holdings LLC from serving as a manager, administrator, owner,
16 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
17 Number PHY 37949 is placed on probation or until Pharmacy Permit Number PHY 37949 is
18 reinstated if Pharmacy Permit Number 37949 issued to Brighton Way Pharmacy Inc. and Lucena
19 Holdings LLC dba West Wilshire Pharmacy is revoked;

20 6. Prohibiting Shahrokh Makhani from serving as a manager, administrator, owner,
21 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
22 Number PHY 37949 is placed on probation or until Pharmacy Permit Number PHY 37949 is
23 reinstated if Pharmacy Permit Number PHY 37949 issued to Brighton Way Pharmacy Inc. and
24 Lucena Holdings LLC dba West Wilshire Pharmacy is revoked;

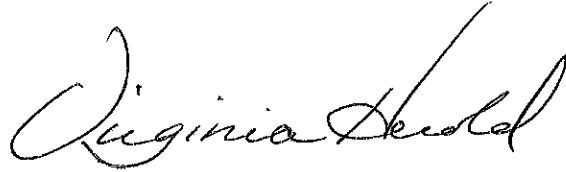
25 7. Ordering Brighton Way Pharmacy Inc. and Lucena Holdings LLC dba West Wilshire
26 Pharmacy, Shahrokh Makhani, and Aisan Khalilian f.k.a. Aisan Zargarian to pay the Board of
27 Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to
28 Business and Professions Code section 125.3;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

DATED:

10/7/17



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

LA2016601218
52101621_3.doc