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

11 In the Matter of the Accusation Against:

Case No. 6183

12 **HI DESERT COMPOUNDING**  
13 **PHARMACY CORP. DBA**  
14 **PRESCRIPTION SHOPPE, LOUIS**  
**EDWARD LONGORIA AND CATHERINE**  
**BERG, OWNERS**

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

15 15247 Eleventh Street  
Victorville, CA 92395  
16 LOUIS EDWARD LONGORIA, Pharmacist-  
In-Charge

17 **Original Permit No. PHY 48593**

18 **and**

19 **LOUIS EDWARD LONGORIA**  
20 17695 Merrill Ave.  
Fontana, CA 92335

21 **Original Pharmacist License No. RPH 24668**

22  
23  
24 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 July 19, 2007, the Board of Pharmacy issued Original Permit Number  
6 PHY 48593 to Respondent Hi Desert Compounding Pharmacy Corp. doing business as  
7 Prescription Shoppe with Louis Edward Longoria as Pharmacist-in-Charge, President, and the  
8 owner of sixty percent (60%) of the outstanding shares and Catherine Berg, as Vice-President,  
9 Secretary, Treasurer/Chief Financial Officer, and the owner of forty percent (40%) of the  
10 outstanding shares ("Respondent Pharmacy"). The Original Permit was in full force and effect at  
11 all times relevant to the charges brought herein and will expire on July 1, 2018, unless renewed.

12 3. On or about August 12, 1966, the Board of Pharmacy issued Original Pharmacist  
13 License Number RPH 24668 to Respondent Louis Edward Longoria ("Respondent Longoria").  
14 The Original Pharmacist License was in full force and effect at all times relevant to the charges  
15 brought herein and will expire on September 30, 2017, unless renewed.

16 **JURISDICTION**

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

20 5. Section 4300 of the Code states:

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

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

25 (1) Suspending judgment.

26 (2) Placing him or her upon probation.

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

28 (4) Revoking his or her license.

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

3 ...

4 (e) The proceedings under this article shall be conducted in accordance with Chapter 5  
5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board  
6 shall have all the powers granted therein. The action shall be final, except that the propriety of the  
7 action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil  
8 Procedure."

9 6. Section 4300.1 of the Code states:

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

15 **STATUTORY PROVISIONS**

16 7. Section 4301 of the Code states:

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

20 ...

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

23 ...

24 (l) The conviction of a crime substantially related to the qualifications, functions, and  
25 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
26 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
27 substances or of a violation of the statutes of this state regulating controlled substances or  
28 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the

1 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
2 The board may inquire into the circumstances surrounding the commission of the crime, in order  
3 to fix the degree of discipline or, in the case of a conviction not involving controlled substances or  
4 dangerous drugs, to determine if the conviction is of an offense substantially related to the  
5 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
6 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
7 of this provision. The board may take action when the time for appeal has elapsed, or the  
8 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
9 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
10 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
11 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
12 indictment.

13 ...

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

18 ...

19 8. Section 4059, subdivision a, of the Code, in pertinent part, states:

20 “A person may not furnish any dangerous drug, except upon a prescription of a physician,  
21 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7....”

22 9. Section 4104, subdivision b, of the Code, states:

23 “Every pharmacy shall have written policies and procedures for addressing chemical,  
24 mental, or physical impairment, as well as theft, diversion, or self-use of dangerous drugs, among  
25 licensed individuals employed by or with the pharmacy.”

26 10. Section 4307 states, in pertinent part:

27 “(a) Any person who has been denied a license or whose license has been revoked or is  
28 under suspension, or who has failed to renew his or her license while it was under suspension, or

1 who has been a manager, administrator, owner, member, officer, director, associate, or partner of  
2 any partnership, corporation, firm, or association whose application for a license has been denied  
3 or 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 of 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 is  
11 issued or reinstated.”

12 11. Health and Safety Code section 11379(a) states:

13 “Except as otherwise provided in subdivision (b) and in Article 7 (commencing with  
14 Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who  
15 transports, imports into this state, sells, furnishes, administers, or gives away, or offers to  
16 transport, import into this state, sell, furnish, administer, or give away, or attempts to import into  
17 this state or transport any controlled substance which is (1) classified in Schedule III, IV, or V and  
18 which is not a narcotic drug, except subdivision (g) of Section 11056, (2) specified in subdivision  
19 (d) of Section 11054, except paragraphs (13), (14), (15), (20), (21), (22), and (23) of subdivision  
20 (d), (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph  
21 (2) or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d) or (e), except  
22 paragraph (3) of subdivision (e), or specified in subparagraph (A) of paragraph (1) of subdivision  
23 (f), of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or  
24 veterinarian, licensed to practice in this state, shall be punished by imprisonment pursuant to  
25 subdivision (h) of Section 1170 of the Penal Code for a period of two, three, or four years.”

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1 REGULATORY PROVISIONS

2 12. California Code of Regulations, title 16, section 1707.2(b)(1)(A) states:

3 “(b)(1) In addition to the obligation to consult set forth in subsection (a), a pharmacist  
4 shall provide oral consultation to his or her patient or the patient's agent in any care setting in  
5 which the patient or agent is present:

6 (A) whenever the prescription drug has not previously been dispensed to a patient;

7 ...”

8 13. California Code of Regulations, title 16, section 1735.3(a) provides in pertinent part,  
9 that for each compounded drug product, the pharmacy records shall include: (1) the master  
10 formula records; (2) name and date of the compounded drug preparation; (3) the date the drug  
11 product was compounded; (4) the identity of the pharmacy personnel who compounded the drug  
12 product; (5) the identity of the pharmacist reviewing the final drug product; (6) the quantity of  
13 each component used in compounding the drug product; (7) the manufacturer, expiration date and  
14 lot number of each component; (8) a pharmacy assigned unique reference or lot number for the  
15 compounded drug preparation; (9) the expiration date of the final compounded drug product; (10)  
16 the quantity or amount of drug product compounded; and (11) documentation of quality reviews  
17 and required post-compounding process and procedures.

18 14. California Code of Regulations, title 16, section 1735.7 states:

19 “(a) A pharmacy engaged in compounding shall maintain documentation demonstrating that  
20 personnel involved in compounding have the skills and training required to properly and  
21 accurately perform their assigned responsibilities and documentation demonstrating that all  
22 personnel involved in compounding are trained in all aspects of policies and procedures. This  
23 training shall include but is not limited to support personnel (e.g. institutional environmental  
24 services, housekeeping), maintenance staff, supervising pharmacist and all others whose jobs are  
25 related to the compounding process.

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1 (b) The pharmacy shall develop and maintain an on-going competency evaluation process  
2 for pharmacy personnel involved in compounding, and shall maintain documentation of any and  
3 all training related to compounding undertaken by pharmacy personnel.

4 (c) Pharmacy personnel assigned to compounding duties shall demonstrate knowledge  
5 about processes and procedures used in compounding prior to compounding any drug  
6 preparation.”

7 15. California Code of Regulations, title 16, section 1707.5(d) states:

8 “The pharmacy shall have policies and procedures in place to help patients with limited or  
9 no English proficiency understand the information on the label as specified in subdivision (a) in  
10 the patient's language. The pharmacy's policies and procedures shall be specified in writing and  
11 shall include, at minimum, the selected means to identify the patient's language and to provide  
12 interpretive services and translation services in the patient's language. The pharmacy shall, at  
13 minimum, provide interpretive services in the patient's language, if interpretive services in such  
14 language are available, during all hours that the pharmacy is open, either in person by pharmacy  
15 staff or by use of a third-party interpretive service available by telephone at or adjacent to the  
16 pharmacy counter.”

17 **COST RECOVERY**

18 16. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
19 administrative law judge to direct a licentiate found to have committed a violation or violations of  
20 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
21 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
22 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
23 included in a stipulated settlement.

24 **CONTROLLED SUBSTANCES AND DANGEROUS DRUGS**

25 17. Trazadone, brand name Desyrel, is used to treat depression and is a dangerous drug  
26 pursuant to Business and Professions Code section 4022.

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1 18. Alprazolam, brand name Xanax, is used to treat anxiety and is a Schedule IV  
2 controlled substance pursuant to Health and Safety Code section 11057(d)(1), and a dangerous  
3 drug pursuant to Business and Professions Code section 4022.

4 19. Citalopram, brand name Celexa, is used to treat depression and is a dangerous drug  
5 pursuant to Business and Professions Code section 4022.

6 20. Lithium Carbonate, brand name Eskalith, is used to treat Bipolar Disorder and is a  
7 dangerous drug pursuant to Business and Professions Code section 4022.

8 21. Olanzapine, brand name Zyprexa, is used to treat Schizophrenia and Bipolar Disorder  
9 and is a dangerous drug pursuant to Business and Professions Code section 4022.

10 22. Clonazepam, brand name Klonopin, is used to treat anxiety and is a Schedule IV  
11 controlled substance pursuant to Health and Safety Code section 11057(d)(7), and a dangerous  
12 drug pursuant to Business and Professions Code section 4022.

13 **FACTUAL BACKGROUND**

14 23. On or about July 14, 2016, the Board received a complaint stating that Respondent  
15 Longoria, an 81-year-old pharmacist, was providing unauthorized prescription medication to the  
16 complainant's 23-year old female cousin ("E.D.") who had mental health issues and had recently  
17 moved from Texas into Respondent Longoria's residence in Fontana, California.

18 24. On or about July 13, 2016, the Fontana Police Department was contacted by E.D.'s  
19 uncle requesting a welfare check at Respondent Longoria's residence. Upon arrival, Fontana  
20 Police officers discovered E.D. having a psychotic episode. E.D. believed that someone was  
21 "messaging with her medications". Upon investigation into E.D.'s medications, Fontana Police  
22 officers discovered that E.D. did not have a valid prescription for her medications. During the  
23 investigation, Respondent Longoria admitted to police that he had been providing E.D. with the  
24 following unauthorized prescription medications: (1) Trazadone (100 mg); (2) Citalopram (40  
25 mg); (3) Clonazepam (1 mg); (4) Alprazolam (2 mg); (5) Olanzapine (5 mg); and (6) Lithium  
26 Carbonate (150 and 300 mg). The vials containing the medications in Respondent Longoria's  
27 home had the following quantities: 150 Lithium Carbonate; 30 Citalopram; 50 Clonazepam; 50  
28 Trazadone; 50 Alprazolam; and 15 Olanzapine.



1           25. On or about September 26, 2016, criminal charges against Respondent Longoria were  
2 filed in the case of *The People of the State of California vs. Louis Edward Longoria*, San  
3 Bernardino Superior Court, Case No. 16CR-050981. The complaint was based on the following  
4 violations: Count 1 - Health and Safety Code section 11379(a) (Transport/Etc Controlled  
5 Substances), a felony; and Count 2- Business and Professions Code section 4059(a) (Furnish  
6 Dangerous Drug/ w/o Prescription), a misdemeanor. On January 12, 2017, Respondent Longoria  
7 pled guilty to Count 2. Count 1 was dismissed pursuant to the plea. The Court ordered  
8 Respondent Longoria to pay a \$225 fine and placed on summary probation for three (3) years.

9           26. On or about October 4, 2016, Board inspectors visited Respondent Pharmacy located  
10 at 15247 Eleventh Street in Victorville, CA to conduct an inspection and investigate the  
11 complaint against Respondent Longoria. While in the waiting area, the inspectors observed two  
12 different patients approach the register, receive their prescriptions and leave without being offered  
13 or given a consultation from the pharmacist. After each transaction, the patients were interviewed  
14 by a Board inspector to whom they confirmed that the prescriptions that were picked up were  
15 indeed new. Patient L.T. picked up prescription Rx# 4017400, a new prescription for Tramadol  
16 50 mg and patient A.A. picked up prescription Rx # 6134986, a new prescription for Ibuprofen  
17 400 mg. Dispensing histories obtained afterwards also confirmed that the prescriptions were new.

18           27. During the site inspection on or about October 4, 2016 at Respondent Pharmacy,  
19 Board inspectors met with Respondent Longoria (who was the Pharmacist-in-Charge), technician  
20 Catherine Berg, and other staff members and discovered the following areas of non-compliance  
21 with the laws and regulations governing the practice of pharmacy:

22           (a) Respondent Pharmacy's staff compounded drug preparations for patient specific  
23 prescriptions as well as drug preparations for future use. A review of the compounding  
24 worksheets revealed pharmacy staff only created a compounding worksheet when compounding  
25 more drug product than needed for the initial prescription. No compounding worksheets were  
26 created or available for drugs compounded only in the amount needed to fill the prescription;

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1 (b) Respondent Longoria was unable to provide written documentation to demonstrate  
2 that pharmacy personnel involved in compounding were properly trained in compounding or had  
3 ongoing training;

4 (c) Respondent Longoria was unable to provide policies and procedures regarding theft  
5 or impairment; and

6 (d) Respondent Longoria was unable to provide the policy and procedure to address how  
7 the pharmacy would help patients with limited or no English proficiency understand the  
8 information on the label.

9 **CAUSES FOR DISCIPLINE AS TO RESPONDENT LONGORIA ONLY:**

10 **FIRST CAUSE FOR DISCIPLINE**

11 (Unprofessional Conduct– Criminal Conviction)

12 28. Respondent Longoria is subject to disciplinary action under Code section 4301(l)  
13 because he has been convicted of a crime substantially related to his qualifications, functions, and  
14 duties as a licensee. Specifically, Respondent Longoria was convicted of violating Code section  
15 4059(a), a misdemeanor, on January 12, 2017 in the case of *The People of the State of California*  
16 *vs. Louis Edward Longoria*, San Bernardino Superior Court, Case No. 16CR-050981.  
17 Complainant refers to, and by this reference incorporates, the allegations contained in paragraphs  
18 23 through 25, as though set forth fully herein.

19 **SECOND CAUSE FOR DISCIPLINE**

20 (Unprofessional Conduct– Furnishing Dangerous Drugs  
21 and Controlled Substances without a Prescription)

22 29. Respondent Longoria is subject to disciplinary action under Code section 4301,  
23 subdivisions (j) and (o), as it relates to Code section 4059(a) and Health and Safety Code section  
24 11379(a). Specifically, Respondent Longoria unlawfully furnished the following dangerous drugs  
25 and/or controlled substances to E.D. without prescriber authorization: Trazadone 100 mg tablets;  
26 Olanzapine 5 mg tablets; Citalopram 40 mg tablets; Lithium Carbonate 150 mg and 300 mg  
27 capsules; Clonazepam 1 mg tablets; and Alprazolam 2 mg tablets. Complainant refers to, and by

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1 this reference incorporates, the allegations contained in paragraphs 23 through 25, as though set  
2 forth fully herein.

3 **CAUSES FOR DISCIPLINE AS TO BOTH RESPONDENT LONGORIA AND**  
4 **RESPONDENT PHARMACY:**

5 **THIRD CAUSE FOR DISCIPLINE**

6 (Failure to Provide Consultation to Patients with New Prescriptions)

7 30. Respondent Longoria and Respondent Pharmacy are subject to disciplinary action  
8 under California Code of Regulations section 1707.2(b)(1)(A), for failing to provide oral  
9 consultation to two patients that picked up new prescriptions at Respondent Pharmacy on or about  
10 October 4, 2016. Complainant refers to, and by this reference incorporates, the allegations  
11 contained in paragraph 26, as though set forth fully herein.

12 **FOURTH CAUSE FOR DISCIPLINE**

13 (Failure to Create and Maintain Proper Records of Compounded Drug Products)

14 31. Respondent Longoria and Respondent Pharmacy are subject to disciplinary action  
15 under California Code of Regulations section 1735.3 for failure to create and maintain a  
16 compounding record for drug product compounded in a quantity sufficient to fill one patient  
17 specific prescription. Complainant refers to, and by this reference incorporates, the allegations  
18 contained in paragraph 27, as though set forth fully herein.

19 **FIFTH CAUSE FOR DISCIPLINE**

20 (Failure to Develop and/or Maintain Documentation Regarding Training of Compounding)

21 32. Respondent Longoria and Respondent Pharmacy are subject to disciplinary action  
22 under California Code of Regulations section 1735.7 for failure to develop and/or maintain  
23 written documentation to demonstrate that pharmacy personnel involved in compounding were  
24 properly trained in compounding or had ongoing training. Complainant refers to, and by this  
25 reference incorporates, the allegations contained in paragraph 27, as though set forth fully herein.

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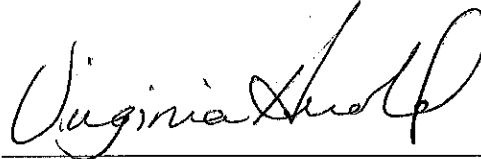
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6. Ordering Hi Desert Compounding Pharmacy Corp. dba Prescription Shoppe and Louis Edward Longoria to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED:

9/15/17



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

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