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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. 6456

12 **CITY CENTER PHARMACY**
13 **BRENTWOOD, INC.**
14 **50 Eagle Rock Way, Suite C**
15 **Brentwood, CA 94513**
16 **Original Pharmacy Permit No. PHY 50457**

ACCUSATION

17 **CENTRAL RX PHARMACY**
18 **50 Eagle Rock Way, Suite C**
19 **Brentwood, CA 94513**
20 **Temporary Pharmacy Permit No. PHY 55855**

21 **NAVID RAHMAN**
22 **50 Eagle Rock Way, Suite C**
23 **Brentwood, CA 94513**
24 **Pharmacist License No. RPH 53027**

25 and

26 **SAIFUDDIN HATIM RANIWALA**
27 **2721 Magazine Lane**
28 **Tracy, CA 95377**
Pharmacist License No. RPH 49936

Respondents.

AND

29 In the Matter of the Statement of Issues Against:

Case No. 6453

30 **CENTRAL RX PHARMACY**
31 **50 Eagle Rock Way, Suite C**
32 **Brentwood, CA 94513**

STATEMENT OF ISSUES

33 **Applicant for Community Pharmacy Permit**

Respondent.

1 Complainant alleges:

2 **PARTIES**

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

6 2. On or about December 15, 2010, the Board issued Original Pharmacy Permit No.
7 PHY 50457 to City Center Pharmacy Brentwood Inc. dba City Center Pharmacy Brentwood Inc.,
8 Saifuddin Hatim Ranawala, Secretary and 51% shareholder, Navid Rahman, Treasurer/CFO and
9 49% shareholder (Respondent City Center). The Pharmacy Permit was in full force and effect at
10 all times relevant to the charges herein. The Pharmacy Permit expired on January 5, 2018, and
11 was cancelled on January 8, 2018 pursuant to a change of ownership.

12 3. On or about August 30, 2017, the Board received an application for a Community
13 Pharmacy Permit from ARAR Healthcare Inc. dba Central Rx Pharmacy, Aatika N. Rahman,
14 CEO/President and 50% shareholder, Navid A. Rahman, Secretary and 50% shareholder
15 (Respondent Central Rx). On or about August 29, 2017, both Aatika N. Rahman and Navid A.
16 Rahman certified under penalty of perjury to the truthfulness of all statements, answers, and
17 representations in the application. On or about January 5, 2018, the Board issued Temporary
18 Pharmacy Permit No. PHY 55855 to Respondent Central Rx, effective until May 15, 2018. On or
19 about May 1, 2018, the Board denied the application, as to a permanent Community Pharmacy
20 Permit. On or about May 4, 2018, Respondent Central Rx appealed the denial. The expiration
21 date of Temporary Pharmacy Permit No. 55855 was subsequently extended to June 15, 2018.

22 4. On or about September 10, 2001, the Board issued Pharmacist License No. RPH
23 53027 to Navid A. Rahman (Respondent Rahman). The License was in full force and effect at all
24 times relevant to the charges herein and will expire on December 31, 2018, unless renewed.
25 Between on or about April 20, 2016 and on or about January 8, 2018, Respondent Rahman served
26 and/or was listed in Board records as Pharmacist in Charge (PIC) for Respondent City Center.
27 From on or about January 6, 2018 to the present, Respondent Rahman served and/or was listed in
28 Board records as PIC for Respondent Central Rx.

1 5. On or about March 16, 1998, the Board issued Pharmacist License No. RPH 49936 to
 2 Saifuddin Hatim Raniwala (Respondent Raniwala). The License was in full force and effect at all
 3 times relevant to the charges herein and will expire on April 30, 2020, unless renewed.

4 **JURISDICTION**

5 6. This Accusation and Statement of Issues is brought before the Board under the
 6 authority of the following laws. All statutory references are to the Business and Professions Code
 7 (Code), unless otherwise indicated.

8 7. Section 4011 of the Code provides that the Board shall administer and enforce both
 9 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
 10 Act [Health & Safety Code, § 11000 et seq.].

11 8. Section 4300, subdivision (a), of the Code provides that every license issued by the
 12 Board may be suspended or revoked.

13 9. Section 4300.1 of the Code provides that the expiration, cancellation, forfeiture, or
 14 suspension of a Board-issued license, the placement of a license on a retired status, or the
 15 voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to
 16 commence or proceed with any investigation of, or action or disciplinary proceeding against, the
 17 licensee or to render a decision suspending or revoking the license.

18 **STATUTORY PROVISIONS**

19 10. Section 480 of the Code states, in pertinent part:

20 “(a) A board may deny a license regulated by this code on the grounds that the applicant
 21 has one of the following:

22 . . .

23 “(2) Done any act involving dishonesty, fraud or deceit with the intent to substantially
 24 benefit himself or another, or substantially injure another; or

25 “(3) Done any act which if done by a licentiate of the business or profession in question,
 26 would be grounds for suspension or revocation of license.

27 “The board may deny a license pursuant to this subdivision only if the crime or act is
 28 substantially related to the qualifications, functions, or duties of the . . . [license].”

1 11. Section 4081 of the Code provides, in pertinent part, that all records of manufacture,
2 sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be kept open to
3 inspection and retained for at least three years, that a current inventory shall be kept by every
4 pharmacy that maintains a stock of dangerous drugs or dangerous devices, and that the owner(s),
5 officer(s), partner(s), and pharmacist in charge or designated representative in charge shall be
6 jointly responsible for maintaining the records and keeping the inventory.

7 12. Section 4105 of the Code requires, in pertinent part, that unless a waiver is granted by
8 the board, all records and other documentation of the acquisition and disposition of dangerous
9 drugs and devices by any entity licensed by the board be retained on the licensed premises, in a
10 readily retrievable form, for three years from the date of making.

11 13. Section 4113, subdivision (c) of the Code states:

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

14 14. Section 4300, subdivision (c), of the Code states in pertinent part:

15 (c) The board may refuse a license to any applicant guilty of unprofessional
16 conduct. The board may, in its sole discretion, issue a probationary license to any
17 applicant for a license who is guilty of unprofessional conduct and who has met all
18 other requirements for licensure. The board may issue the license subject to any
19 terms or conditions not contrary to public policy. . . .

20 15. Section 4301 of the Code provides, in pertinent part, that the Board shall take action
21 against any holder of a license who is guilty of “unprofessional conduct,” defined to include, but
22 not be limited to, any of the following:

23 (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
24 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
25 whether the act is a felony or misdemeanor or not.

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

28 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
violation of or conspiring to violate any provision or term of this chapter or of the applicable
federal and state laws and regulations governing pharmacy

1 16. Section 4307, subdivision (a) of the Code states that:

2 Any person who has been denied a license or whose license has been revoked
3 or is under suspension, or who has failed to renew his or her license while it was
4 under suspension, or who has been a manager, administrator, owner member, officer,
5 director, associate, or partner of any partnership, corporation, firm, or association
6 whose application for a license has been denied or revoked, is under suspension or
7 has been placed on probation, and while acting as the manger, administrator, owner,
8 member, officer, director, associate, or partner had knowledge or knowingly
9 participated in any conduct for which the license was denied, revoked, suspended, or
10 placed on probation, shall be prohibited from serving as a manager, administrator,
11 owner, member, officer, director, associate, or partner of a licensee as follows:

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

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

17 17. Section 4332 of the Code makes it unlawful for any person: to fail, neglect, or refuse
18 to maintain the records required by Section 4081; or, when called upon by an authorized officer
19 or a member of the board, to fail, neglect, or refuse to produce or provide the records within a
20 reasonable time; or to willfully produce or furnish records that are false.

21 REGULATORY PROVISIONS

22 18. California Code of Regulations, title 16, section 1718, states:

23 “‘Current Inventory’ as used in Sections 4081 and 4332 of the Business and Professions
24 Code shall be considered to include complete accountability for all dangerous drugs handled by
25 every licensee enumerated in Sections 4081 and 4332.

26 “The controlled substances inventories required by Title 21, CFR, Section 1304 shall be available
27 for inspection upon request for at least 3 years after the date of the inventory.

28 19. California Code of Regulations, title 16, section 1735.5, subdivision (a) requires in
pertinent part that any pharmacy engaged in compounding shall maintain written policies and
procedures governing standard operating procedures related to compounding. Subdivision (b)
requires that the written compounding policies and procedures be reviewed on an annual basis by
the PIC and that review documented. It further requires that the written policies and procedures
shall be updated whenever changes in policies and procedures are implemented.

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1 20. California Code of Regulations, title 16, section 1735.7, subdivision (a) requires in
 2 pertinent part that any pharmacy engaged in compounding shall maintain documentation
 3 demonstrating that personnel involved in compounding have the skills and training required to
 4 properly and accurately perform their assigned responsibilities and documentation demonstrating
 5 that all personnel involved in compounding are trained in all aspects of policies and procedures.
 6 This training shall include but is not limited to support personnel (e.g., institutional environmental
 7 services, housekeeping), maintenance staff, supervising pharmacists and all others whose jobs are
 8 related to the compounding process.

9 21. California Code of Regulations, title 16, section 1770, states:

10 For the purpose of denial, suspension, or revocation of a personal or facility
 11 license pursuant to Division 1.5 (commencing with Section 475) of the Business
 12 and Professions Code, a crime or act shall be considered substantially related to
 13 the qualifications, functions or duties of a licensee or registrant if to a substantial
 14 degree it evidences present or potential unfitness of a licensee or registrant to
 15 perform the functions authorized by his license or registration in a manner
 16 consistent with the public health, safety, or welfare.

14 **COST RECOVERY**

15 22. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
 16 administrative law judge to direct a licentiate found to have committed a violation of the licensing
 17 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

18 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

19 23. Section 4021 of the Code states:

20 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section
 21 11053) of Division 10 of the Health and Safety Code.”

22 24. Section 4022 of the Code states, in pertinent part:

23 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,
 24 except veterinary drugs that are labeled as such, and includes the following:

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

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1 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
2 prescription or furnished pursuant to Section 4006.”

3 25. **Abilify** is a brand name for **aripiprazole**, a dangerous drug as designated by Business
4 and Professions Code section 4022. It is used to treat various mental health disorders.

5 FACTUAL BACKGROUND

6 26. On or about December 20, 2017, the Board received a complaint against Respondent
7 City Center, alleging various violations of pharmacy law including that the pharmacy was filling
8 prescriptions with generic **aripiprazole** but billing for dispensing name brand **Abilify**.

9 27. Subsequent to receipt of the complaint, Respondent City Center changed ownership,
10 cancelling its Original Pharmacy Permit January 8, 2018, and causing a Temporary Pharmacy
11 Permit to issue to Respondent Central Rx on January 5, 2018, based on its 2017 application.

12 28. On or about February 6, 2018 and subsequently, during an inspection and subsequent
13 investigation of Respondents Central Rx and City Center, Board Inspector(s) discovered:

14 a. That the written compounding policies and procedures had not been reviewed
15 by the PIC(s) for Respondent City Center or Respondent Central Rx since 2015;

16 b. Incomplete compounding staff competency and training records, pertaining to
17 both Respondent City Center and Respondent Central Rx;

18 c. Significant and unexplained discrepancies in acquisition and disposition records
19 for brand name **Abilify** and generic **aripiprazole** for quantities acquired and dispensed
20 between January 1, 2017 and February 6, 2018. During this period, far more brand name
21 **Abilify** had been recorded as dispensed by both Respondent City Center and Respondent
22 Central Rx than had been purchased (over 9,500 tablets of various strengths), and far more
23 generic **aripiprazole** had been purchased by Respondent City Center and Respondent
24 Central Rx than had been recorded as dispensed by either (over 6,500 tablets).

25 d. Between January 1, 2017 and February 6, 2018, Respondents City Center and
26 Central Rx billed Medi-Cal for brand name **Abilify** for each prescription dispensed, and
27 billed other insurance for generic **aripiprazole**. The reimbursement difference from Medi-
28 Cal for brand name **Abilify** versus generic was approximately \$1,200.00 per prescription.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)**

3 29. Respondents City Center, Central Rx, Rahman, and Raniwala are each and severally
4 subject to discipline under section 4301, subdivision (f) of the Code, as well as section 4113,
5 subdivision (c) of the Code, in that Respondents, as described in paragraphs 26 to 28 above,
6 committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption when they
7 billed for name brand **Abilify** while dispensing generic **aripiprazole** to Medi-Cal patients.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Incomplete/Inaccurate Inventory and/or Records of Acquisition and/or Disposition)**

10 30. Respondents City Center, Central Rx, Rahman, and Raniwala are each and severally
11 subject to discipline under section 4301, subdivision(s) (j) and/or (o), and/or section 4113,
12 subdivision (c) of the Code, by reference to section(s) 4081, 4105, and/or 4332 of the Code,
13 and/or California Code of Regulations, title 16, section 1718, for violating statutes regulating
14 controlled substances or dangerous drugs, and/or directly or indirectly violating, attempting to
15 violate, or assisting in or abetting a violation of laws or regulations governing the practice of
16 pharmacy, in that, as described in paragraph 28 above, Respondent pharmacies and their PIC and
17 owners failed to maintain an accurate, complete, and readily retrievable inventory and/or records
18 of acquisition and disposition of all dangerous drugs in the pharmacy inventory.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Failure to Annually Review Compounding Policies and Procedures)**

21 31. Respondents Central Rx and Rahman are each and severally subject to discipline
22 under section 4301, subdivision(s) (j) and/or (o), and/or section 4113, subdivision (c) of the Code,
23 by reference to California Code of Regulations, title 16, section 1735.5, for violating statutes
24 regulating controlled substances or dangerous drugs, and/or directly or indirectly violating,
25 attempting to violate, or assisting in or abetting a violation of laws or regulations governing the
26 practice of pharmacy, in that, as described in paragraph 28 above, Respondent pharmacy and its
27 PIC failed to annually review written policies and procedures pertaining to compounding.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Complete and/or Document Compounding Staff Training)**

3 32. Respondents Central Rx and Rahman are each and severally subject to discipline
4 under section 4301, subdivision(s) (j) and/or (o), and/or section 4113, subdivision (c) of the Code,
5 by reference to California Code of Regulations, title 16, section 1735.7, for violating statutes
6 regulating controlled substances or dangerous drugs, and/or directly or indirectly violating,
7 attempting to violate, or assisting in or abetting a violation of laws or regulations governing the
8 practice of pharmacy, in that, as described in paragraph 28 above, Respondent pharmacy and its
9 PIC failed to complete or adequately document training of staff engaged in compounding.

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12 **FIRST CAUSE FOR DENIAL OF APPLICATION**

13 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)**

14 33. Respondent Central Rx's application for a permanent Pharmacy Permit is subject to
15 denial under section(s) 480, subdivision (a)(2) and/or (a)(3) and/or 4300, subdivision (c) of the
16 Code, by reference to section 4301, subdivision (f) of the Code, in that Respondent, as described
17 in paragraphs 26 to 28 above, committed acts involving moral turpitude, dishonesty, fraud, deceit,
18 or corruption when it billed for name brand **Abilify** while dispensing generic **aripiprazole**.

19 **SECOND CAUSE FOR DENIAL OF APPLICATION**

20 **(Incomplete/Inaccurate Inventory and/or Records of Acquisition and/or Disposition)**

21 34. Respondent Central Rx's application for a permanent Pharmacy Permit is subject to
22 denial under section(s) 480, subdivision (a)(3) and/or 4300, subdivision (c) of the Code, by
23 reference to section(s) 4301, subdivision(s) (j) and/or (o), 4081, 4105, and/or 4332 of the Code,
24 and/or California Code of Regulations, title 16, section 1718, in that, as described in paragraph 28
25 above, Respondent failed to maintain an accurate, complete, and readily retrievable inventory
26 and/or records of acquisition and disposition of all dangerous drugs in the pharmacy inventory.

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THIRD CAUSE FOR DENIAL OF APPLICATION

(Failure to Annually Review Compounding Policies and Procedures)

35. Respondent Central Rx's application for a permanent Pharmacy Permit is subject to denial under section(s) 480, subdivision (a)(3) and/or 4300, subdivision (c) of the Code, by reference to section 4301, subdivision(s) (j) and/or (o), and California Code of Regulations, title 16, section 1735.5, in that, as described in paragraph 28 above, Respondent failed to annually review written policies and procedures pertaining to compounding.

FOURTH CAUSE FOR DENIAL OF APPLICATION

(Failure to Complete and/or Document Compounding Staff Training)

36. Respondent Central Rx's application for a permanent Pharmacy Permit is subject to denial under section(s) 480, subdivision (a)(3) and/or 4300, subdivision (c) of the Code, by reference to section 4301, subdivision(s) (j) and/or (o), and California Code of Regulations, title 16, section 1735.7, in that, as described in paragraph 28 above, Respondent failed to complete or adequately document training of staff engaged in compounding.

OTHER MATTERS

37. Pursuant to section 4307 of the Code, if discipline is imposed on Pharmacy Permit No. PHY 50457 or on Temporary Pharmacy Permit No. PHY 55855, or if the application for permanent licensure submitted by Respondent Central Rx is denied, then any person who has been a manager, administrator, owner, member, officer, director, associate, partner, or any other person with management or control of any partnership, corporation, trust, firm, or association which received this discipline or denial, and while acting as the manager, administrator, owner, member, officer, director, associate, partner, or any other person with management or control, had knowledge of or knowingly participated in any conduct leading to discipline or denial, shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for: five years if Pharmacy Permit No. PHY 50457 or Temporary Pharmacy Permit No. PHY 55855 is placed on probation or a probationary permanent license is issued to Respondent Central Rx; or until any license revoked or denied is issued or reinstated.

1 38. Pursuant to section 4307 of the Code, if discipline is imposed on Pharmacist License
2 No. RPH 53027 or on Pharmacist License No. RPH 49936, then the licensee so disciplined shall
3 be prohibited from serving as a manager, administrator, owner, member, officer, director,
4 associate, or partner of a licensee for: five years if the license is placed on probation; or if the
5 license is revoked, until it is reinstated or reissued.

6
7 **DISCIPLINARY CONSIDERATIONS**

8 39. To determine the degree of discipline, if any, to be imposed on Respondents City
9 Center, Rahman, and Raniwala, Complainant alleges that:

10 a. On or about June 2, 2016, the Board issued Citation No. CI 2015 66718 to
11 Respondent City Center for violating: California Code of Regulations, title 16, section 1714,
12 subdivision (c) (failure to maintain pharmacy, fixtures, and equipment in clean and orderly
13 condition); Business and Professions Code section 4342, subdivision (a) (failure to remove
14 multiple expired medications intended for compounding from the drug stock); and California
15 Code of Regulations, title 16, section 1761 (filling suspicious "red flag" prescriptions). The
16 Citation imposed a fine of \$4,000.00. Respondent City Center paid the fine. That Citation is now
17 final and is incorporated herein by reference.

18 b. On or about June 2, 2016, the Board issued Citation No. CI 2015 70584 to
19 Respondent Rahman for violating California Code of Regulations, title 16, section 1761 (filling
20 suspicious "red flag" prescriptions). The Citation imposed a fine of \$500.00. Respondent
21 Rahman paid the fine. That Citation is now final and is incorporated herein by reference.

22 c. On or about June 2, 2016, the Board issued Citation No. CI 2015 70582 to
23 Respondent Raniwala, as PIC of Respondent City Center, for violating: California Code of
24 Regulations, title 16, section 1714, subdivision (c) (failure to maintain pharmacy, fixtures, and
25 equipment in clean and orderly condition); and Business and Professions Code section 4342,
26 subdivision (a) (failure to remove multiple expired medications intended for compounding from
27 the drug stock). The Citation imposed a fine of \$1,750.00. Respondent Raniwala paid the fine.
28 That Citation is now final and is incorporated herein by reference.

PRAYER

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

1. Revoking or suspending Original Pharmacy Permit No. PHY 50457, issued to City Center Pharmacy Brentwood Inc. dba City Center Pharmacy Brentwood Inc., Saifuddin Hatim Ranawala and Navid Rahman, owners and officers (Respondent City Center);

2. Revoking or suspending Temporary Pharmacy Permit No. PHY 55855, issued to ARAR Healthcare Inc. dba Central Rx Pharmacy, Aatika N. Rahman and Navid A. Rahman, owners and officers (Respondent Central Rx);

3. Revoking or suspending Pharmacist License No. RPH 53027, issued to Navid A. Rahman (Respondent Rahman);

4. Revoking or suspending Pharmacist License No. RPH 49936, issued to Saifuddin Hatim Raniwala (Respondent Raniwala);

5. Denying the application for a Community Pharmacy Permit submitted by ARAR Healthcare Inc. dba Central Rx Pharmacy, Aatika N. Rahman and Navid A. Rahman, owners and officers (Respondent Central Rx);

6. Prohibiting Respondents from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for: five years if an applicable license is placed on probation; or until any license revoked or denied is issued or reinstated;

7. Ordering Respondents to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: _____

6/6/18



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

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