

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 3070

IRA S, GOLD
1073 Norfolk Drive
San Jose, CA 95129

Pharmacist License No. RPH 23079

Respondent.

DECISION AND ORDER


The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on May 27, 2009.

It is so ORDERED on April 27, 2009.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



KENNETH H. SCHELL
Board President

1 EDMUND G. BROWN JR., Attorney General
 of the State of California
 2 FRANK H. PACOE
 Supervising Deputy Attorney General
 3 JOSHUA A. ROOM, State Bar No. 214663
 Deputy Attorney General
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6 Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

11 IRA S. GOLD
 12 1073 Norfolk Drive
 San Jose, California 95129

13 Pharmacist License No. RPH 23079

14 Respondent.

Case No. 3070

OAH No. N2008040341

**STIPULATED SETTLEMENT AND
 DISCIPLINARY ORDER**

16 In the interest of a prompt and speedy settlement of this matter, consistent with the
 17 public interest and responsibility of the Board of Pharmacy, Department of Consumer Affairs,
 18 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will
 19 be submitted to the Board for approval and adoption as the final disposition of the Accusation.

20
 21 PARTIES

22 1. Virginia Herold (Complainant) is the Executive Officer of the Board of
 23 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
 24 by Edmund G. Brown Jr., Attorney General of the State of California, by Joshua A. Room,
 25 Deputy Attorney General.

26 2. Ira S. Gold (Respondent) is represented in this proceeding by attorney
 27 Donald B. Brown, whose address is Law Offices of Brown & Brown, 3848 Carson Street, Suite
 28 206, Torrance, California 90503 (telephone (310) 792-1315).

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CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 3070.

9. Respondent agrees that his Pharmacist License is subject to discipline and he agrees to be bound by the Board of Pharmacy (Board)'s imposition of discipline as set forth in the Disciplinary Order below.

RESERVATION

10. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

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IT IS HEREBY ORDERED that Pharmacist License No. RPH 23079, issued to Ira S. Gold (Respondent), is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. **Obey All Laws.** Respondent shall obey all state and federal laws and regulations substantially related to or governing the practice of pharmacy.

Respondent shall report any of the following occurrences to the Board, in writing, within 72 hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state and federal agency which involves Respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distribution or billing or charging for any drug, device or controlled substance.

2. **Reporting to the Board.** Respondent shall report to the Board on a quarterly basis, in person or in writing, as directed. In each such report, Respondent shall state under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to make any report timely and complete as directed shall be considered a violation of probation. If the final probation report is not made as directed, probation shall be extended automatically until such time as the final report is made and accepted by the Board.

3. **Interview with the Board.** Upon receipt of reasonable notice, Respondent shall appear in person for interviews with the Board upon request at various intervals at a location to be determined by the Board. Failure to appear for a scheduled interview without prior notification to Board staff shall be considered a violation of probation.

1 4. **Cooperation with Board Staff.** Respondent shall cooperate with the
2 Board's inspection program and in the Board's monitoring and investigation of Respondent's
3 compliance with the terms and conditions of her probation. Failure to cooperate or comply
4 with Board monitoring or investigation shall be considered a violation of probation.

5 5. **Continuing Education.** Respondent shall provide evidence of efforts
6 to maintain skill and knowledge as a pharmacist as directed by the Board.

7 6. **Mental Health Examination.** Within thirty (30) days of the effective
8 date of this decision, and on a periodic basis as may be required by the Board, Respondent
9 shall undergo, at Respondent's expense, psychiatric evaluation(s) by a Board-appointed or
10 Board-approved psychiatrist or psychologist. Respondent shall provide the evaluator with a
11 copy of this decision and the underlying accusation, and shall sign a release authorizing the
12 evaluator to furnish the Board a current diagnosis and written report regarding Respondent's
13 judgment and ability to function independently as a pharmacist with safety to the public.

14 Respondent shall comply with all recommendations of the evaluator as directed by the Board.

15 If the evaluator recommends, and the Board directs, Respondent shall undergo
16 psychotherapy. Respondent shall, within thirty (30) days of written notice of the need for
17 psychotherapy, submit to the Board for its prior approval the recommended program for
18 ongoing psychotherapeutic care. Respondent shall undergo and continue psychotherapy, at
19 Respondent's expense, until further notice from the Board. Respondent shall have the treating
20 psychotherapist or psychiatrist submit written quarterly reports to the Board as directed.

21 If at any point Respondent is determined by any evaluator or by any treating
22 psychotherapist or psychiatrist to be unable to practice independently with safety to the public,
23 that professional shall immediately notify Respondent and the Board. Upon notification from
24 the Board, Respondent shall immediately cease practice and shall not resume practice until the
25 professional that recommended suspension further recommends, in writing, stating the basis
26 therefor, that Respondent can safely return to practice, and the Board approves said return.

27 During any such suspension, Respondent shall not enter any pharmacy area or
28 any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or

1 any other distributor of drugs which is licensed by the Board, or any manufacturer, or where
 2 dangerous drugs and devices or controlled substances are maintained. Respondent shall not
 3 practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing,
 4 compounding, dispensing or patient consultation; nor shall Respondent manage, administer, or
 5 be a consultant to any licensee of the Board, or have access to or control the ordering,
 6 manufacturing or dispensing of dangerous drugs and controlled substances.

7 During any such suspension, Respondent shall not engage in any activity that
 8 requires the professional judgment of a pharmacist, shall not direct or control any aspect of the
 9 practice of pharmacy, and shall not perform the duties of a pharmacy technician or an
 10 exemptee for any entity licensed by the Board.

11 7. **Community Services Program.** Within sixty (60) days of the effective
 12 date of this decision, Respondent shall submit to the Board or its designee, for prior approval,
 13 a community service program in which Respondent agrees to provide free health-care related
 14 services on a regular basis to a community or charitable facility or agency for a total of at least
 15 250 hours during the first two (2) years of probation, and shall subsequently serve said hours
 16 in timely fashion. The hours served shall be in addition to and not include any hours already
 17 served or to be served for requirements imposed by another authority or agency (e.g., criminal
 18 probation). Respondent shall include in his quarterly reporting to the Board a running tally
 19 and assessment of the hours served. Failure to timely report on, or to make timely progress
 20 toward completion of, the service hours shall be considered a violation of probation.

21 8. **No New Ownership of Premises.** Respondent shall not acquire any
 22 new ownership, legal or beneficial interest nor serve as a manager, administrator, member,
 23 officer, director, trustee, associate, or partner of any additional business, firm, partnership, or
 24 corporation licensed by the Board. If Respondent currently owns or has any legal or beneficial
 25 interest in, or serves as a manager, administrator, member, officer, director, associate, or
 26 partner of any business, firm, partnership, or corporation currently or hereinafter licensed by
 27 the Board, Respondent may continue to serve in such capacity or hold that interest, but only to
 28 the extent of that position or interest as of the effective date of this decision.

1 9. **No Intern Supervision, Preceptorships, or Serving as Consultant;**
 2 **Independent Consultant Required.** Respondent shall not supervise any intern pharmacist,
 3 perform any of the duties of a preceptor or serve as a consultant to any entity licensed by the
 4 Board. Respondent may be a pharmacist-in-charge (PIC). However, Respondent shall retain
 5 an independent consultant at Respondent's own expense who shall be responsible for
 6 reviewing pharmacy operations on a quarterly basis for compliance by Respondent with state
 7 and federal laws and regulations governing the practice of pharmacy and for compliance by
 8 Respondent with the obligations of a pharmacist-in-charge (PIC). The consultant shall be a
 9 pharmacist licensed by and not on probation with the Board whose name shall be submitted to
 10 the Board, for its prior approval, within thirty (30) days of the effective date of this decision.
 11 Respondent shall not be a pharmacist-in-charge (PIC) at more than one pharmacy or any
 12 pharmacy of which Respondent is not the sole owner.

13 10. **Notice to Employers.** Respondent shall notify all present and
 14 prospective employers of the decision in Case Number 3070 and the terms, conditions and
 15 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of
 16 this decision, and within 15 days of Respondent undertaking new employment, Respondent
 17 shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in
 18 writing acknowledging the employer has read the decision in Case Number 3070.

19 If Respondent works for or is employed by or through a pharmacy employment
 20 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at
 21 every pharmacy of the and terms conditions of the decision in Case Number 3070 in advance
 22 of the Respondent commencing work at each pharmacy.

23 "Employment" within the meaning of this provision shall include any full-time,
 24 part-time, temporary, relief or pharmacy management service as a pharmacist,
 whether the Respondent is considered an employee or independent contractor.

25 11. **Reimbursement of Board Costs.** Respondent shall pay to the Board
 26 its costs of investigation and prosecution in the amount of \$5,400.00. Payments shall be due
 27 on a quarterly basis, with the entire amount to be paid within two (2) years. Failure to make
 28 timely payments of Board costs as directed shall be considered a violation of probation.

1 The filing of bankruptcy by Respondent shall not relieve Respondent of his
2 responsibility to reimburse the Board its costs of investigation and prosecution.

3 12. **Probation Monitoring Costs.** Respondent shall pay costs associated
4 with probation monitoring as determined by the Board each and every year of probation. Such
5 costs shall be payable to the Board at the end of each year of probation. Failure to timely pay
6 such costs as directed shall be considered a violation of probation.

7 13. **Notification of Employment/Mailing Address Change.** Respondent
8 shall notify the Board in writing within ten (10) days of any change of employment. Said
9 notification shall include the reasons for leaving and/or the address of the new employer,
10 supervisor or owner and work schedule if known. Respondent shall notify the Board in
11 writing within ten (10) days of a change in name, mailing address or phone number. Failure to
12 timely provide either notification to the Board shall be considered a violation of probation.

13 14. **Status of License.** Respondent shall, at all times while on probation,
14 maintain an active current license with the Board, including any period during which a period
15 of suspension or probation is tolled.

16 If Respondent's license expires or is cancelled by operation of law or
17 otherwise, upon renewal or reapplication Respondent's license shall be subject to all terms
18 and conditions of this probation not previously satisfied.

19 15. **Tolling of Probation.** Respondent shall work at least forty (40) hours
20 as a pharmacist in each calendar month and at least an average of eighty (80) hours per month
21 in any six (6) consecutive months. Failure to do so will be considered a violation of
22 probation. If Respondent has not complied with this condition during the probationary term,
23 and Respondent has presented sufficient documentation of his good faith efforts to comply
24 with this condition, and if no other conditions have been violated, the Board, in its discretion,
25 may grant an extension of Respondent's probation period of up to one (1) year without further
26 hearing in order to comply with this condition.

27 Should Respondent, regardless of residency, for any reason cease practicing
28 pharmacy for a minimum of forty (40) hours per calendar month in California, Respondent

1 must notify the Board in writing within ten (10) days of cessation of the practice of pharmacy
2 or the resumption of the practice of pharmacy. Such periods of time shall not apply to the
3 reduction of the probation period. It is a violation of probation for Respondent's probation to
4 remain tolled pursuant to this term and condition for a period exceeding three (3) years.

5 "Cessation of practice" means any period of time exceeding thirty (30) days in
6 which Respondent is not engaged in the practice of pharmacy as defined in
7 Section 4052 of the Business and Professions Code.

8 16. **License Surrender while on Probation/Suspension.** Following the
9 effective date of this decision, should Respondent cease practice due to retirement or health, or
10 be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender
11 his license to the Board for surrender. The Board shall have the discretion whether to grant
12 the request for surrender or take any other action it deems appropriate and reasonable. Upon
13 formal acceptance of the surrender of the license, Respondent will no longer be subject to the
14 terms and conditions of the probation set forth herein. Upon acceptance of the surrender,
15 Respondent shall relinquish his pocket license to the Board within ten (10) days of notification
16 by the Board that the surrender of the license is accepted.

17 Respondent may not reapply for any license from the Board for three (3) years
18 from the effective date of the surrender. Respondent shall meet all requirements applicable to
19 the license sought as of the date the application for that license is submitted to the Board.

20 17. **Violation of Probation.** If Respondent violates probation in any
21 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke
22 probation and carry out the disciplinary order that was stayed. If a petition to revoke probation
23 or an accusation is filed against Respondent during probation, the Board shall have continuing
24 jurisdiction and the period of probation shall be extended until the petition to revoke probation
25 or accusation is heard and decided. If Respondent has not complied with any term or
26 condition of probation, the Board shall have continuing jurisdiction over Respondent, and
27 probation shall automatically be extended until all terms and conditions have been satisfied or
28 the Board has taken other action as deemed appropriate to treat the failure to comply as a
violation of probation, to terminate probation, and/or to impose the penalty that was stayed.

Exhibit A
Accusation No. 3070

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
4 California Department of Justice
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7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

12 IRA S. GOLD
1073 Norfolk Drive
13 San Jose, California 95129

14 Pharmacist License No: RPH 23079

15 Respondent.

Case No. 3070

OAH No.

ACCUSATION

16
17 Complainant alleges:

18 PARTIES

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21 2. On or about July 22, 1963, the Board of Pharmacy issued Pharmacist
22 License No. RPH 23079 to Ira S. Gold (Respondent). The Pharmacist License was in full force
23 and effect at all times relevant to the charges brought herein and will expire on September 30,
24 2008, unless renewed.

25 JURISDICTION

- 26 3. This Accusation is brought before the Board of Pharmacy (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code (Code) unless otherwise indicated.

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

4 5. Section 4300(a) of the Code provides that every license issued by the
5 Board may be suspended or revoked.

6 6. Section 118(b) of the Code provides, in pertinent part, that the suspension,
7 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to
8 proceed with a disciplinary action during the period within which the license may be renewed,
9 restored, reissued or reinstated. Section 4402(a) of the Code provides that any pharmacist license
10 that is not renewed within three years following its expiration may not be renewed, restored, or
11 reinstated and shall be canceled by operation of law at the end of the three-year period.

12 STATUTORY PROVISIONS

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

16 “(a) Gross immorality.

17 ...

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

21 ...

22 “(l) The conviction of a crime substantially related to the qualifications, functions,
23 and duties of a licensee under this chapter. . . .

24 ...

25 “(q) Engaging in any conduct that subverts or attempts to subvert an investigation
26 of the board.

27 ...

28 ///

1 8. California Code of Regulations, title 16, section 1770, provides that a
2 crime or act shall be considered substantially related to the qualifications, functions or duties of a
3 licensee or registrant “if to a substantial degree it evidences present or potential unfitness of a
4 licensee or registrant to perform the functions authorized by his license or registration in a
5 manner consistent with the public health, safety, or welfare.”

6 9. Section 125.3 of the Code provides, in pertinent part, that the Board may
7 request the administrative law judge to direct a licensee found to have committed a violation of
8 the licensing act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

9 FIRST CAUSE FOR DISCIPLINE

10 (Conviction of a Substantially Related Crime)

11 10. Respondent is subject to discipline under section 4301(1) of the Code and
12 California Code of Regulations, title 16, section 1770, for conviction of a substantially related
13 crime, in that on or about November 13, 2007, in a criminal case titled *People v. Ira Gold*, Case
14 No. BB622164 in Santa Clara County Superior Court, Respondent was convicted by plea of *nolo*
15 *contendere* of violating Penal Code section 422 (making threats to commit a crime resulting in
16 death or great bodily injury), a misdemeanor. The circumstances are as follows:

17 a. On or about July 19, 2006, Respondent was communicating via
18 telephone with a doctor’s office, seeking permission to fill a patient prescription, and threatened
19 an employee of the doctor’s office by saying, among other things, “I’m going to come over there,
20 put a gun in your mouth, and shoot you.” The victim took the threat as credible.

21 b. On or about August 14, 2006, Respondent was charged in Case No.
22 BB622164 with one (1) count of violating Penal Code section 422 (making threats to commit a
23 crime resulting in death or great bodily injury), a misdemeanor.

24 c. On or about November 13, 2007, Respondent agreed to plead *nolo*
25 *contendere*, and was convicted. Imposition of sentence was suspended for a probation period of
26 three (3) years of court probation, on terms and conditions including sixteen (16) hours of anger
27 management coursework, one hundred (100) hours of community service, fines and fees, and a
28 criminal protective order delimiting his further contact with the victim or the doctor’s office.

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SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

11. Respondent is subject to discipline under section 4301 of the Code, for unprofessional conduct, for his conduct described in Paragraph 10 above.

THIRD CAUSE FOR DISCIPLINE

(Gross Immorality)

12. Respondent is subject to discipline under section 4301(a) of the Code, for gross immorality, for his conduct described in Paragraph 10 above.

FOURTH CAUSE FOR DISCIPLINE

(Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

13. Respondent is subject to discipline under section 4301(f) of the Code, for moral turpitude, dishonesty, fraud, deceit, or corruption, for his conduct described in Paragraph 10 above and/or because during the investigation of the events that took place on or about July 19, 2006 by the Sunnyvale Police Department and by an Inspector for the Board of Pharmacy, Respondent lied to the Police Officer(s) and/or to the Inspector(s) on separate occasions, initially denying that he had a patient with the name in which a prescription had been sought from the doctor's office and that anyone at the pharmacy used the name "Sam," which was the name used on the telephone when the threatening call was made, only to later admit that the patient named was his patient, and that he used the name/nickname "Sam" for himself.

FIFTH CAUSE FOR DISCIPLINE

(Subversion/Attempted Subversion of Board Investigation)

14. Respondent is subject to discipline under section 4301(q) of the Code, for engaging in conduct that subverted or attempted to subvert an investigation of the Board, because as described in Paragraph 13, Respondent initially denied under questioning by an Inspector for the Board of Pharmacy that anyone at the pharmacy used the name "Sam," which was the name used on the telephone when the threatening call was made, only to later admit that he was "Sam."

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1 SIXTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

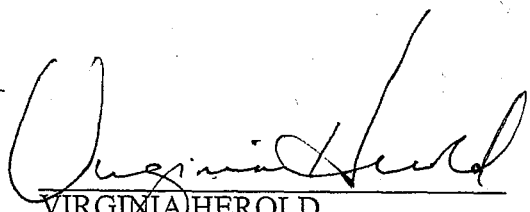
3 15. Respondent is subject to discipline under section 4301 of the Code, for
4 unprofessional conduct, in that on or about September 21, 2001, Respondent became agitated and
5 angry with an employee of a Costco Tire facility in Sunnyvale, CA, brandished a crowbar in a
6 threatening manner, and verbally stated one or more racial/ethnic slurs.

7
8 PRAYER

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

- 11 1. Revoking or suspending Pharmacist License Number RPH 23079, issued
- 12 to Ira S. Gold (Respondent);
- 13 2. Ordering Respondent to pay the Board reasonable costs of investigation
- 14 and enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 15 3. Taking such other and further action as is deemed necessary and proper.

16
17 DATED: 1/15/08



18
19 VIRGINIA HEROLD
20 Executive Officer
21 Board of Pharmacy
22 Department of Consumer Affairs
23 State of California
24 Complainant

25 SF2007400755; 40141824