

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

In the Matter of the Accusation Against:

**SERJ SOUKAZ MARKARIAN
7766 N. Glenoaks Blvd.
Burbank, CA 91504**

Pharmacist License No. RPH 54284

Respondent.

Case No. 3601

OAH No. L-2011090609

DECISION AND ORDER

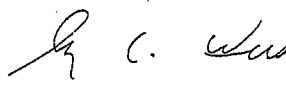
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on June 7, 2012.

It is so ORDERED on May 8, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY C. WEISSER
Board President

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Attorney General of California
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7

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

11 In the Matter of the Accusation Against:

12 **SERJ SOUKAZ MARKARIAN**
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14 **Pharmacist License No. RPH 54284**

15 Respondent.

Case No. 3601

OAH No. L-2011090609

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
21 She brought this action solely in her official capacity and is represented in this matter by Kamala
22 D. Harris, Attorney General of the State of California, by William D. Gardner, Deputy Attorney
23 General.

24 2. Respondent Serj Soukaz Markarian (Respondent) is represented in this proceeding by
25 attorney Herbert L. Weinberg, whose address is: 1800 Century Park East, 8th Floor, Los
26 Angeles, CA 90067.

27 3. On or about March 20, 2003, the Board of Pharmacy issued Pharmacist License No.
28 RPH 54284 to Serj Soukaz Markarian (Respondent). The Pharmacist License was in full force

1 and effect at all times relevant to the charges brought in Accusation No. 3601 and will expire on
2 September 30, 2012, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 3601 was filed before the Board of Pharmacy (Board), Department of
5 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
6 statutorily required documents were properly served on Respondent on June 15, 2011.
7 Respondent timely filed his Notice of Defense contesting the Accusation.

8 5. A copy of Accusation No. 3601 is attached as exhibit A and incorporated herein by
9 reference.

10 **ADVISEMENT AND WAIVERS**

11 6. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. 3601. Respondent has also carefully read, fully
13 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
14 Order.

15 7. Respondent is fully aware of his legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
17 his own expense; the right to confront and cross-examine the witnesses against him; the right to
18 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
19 the attendance of witnesses and the production of documents; the right to reconsideration and
20 court review of an adverse decision; and all other rights accorded by the California
21 Administrative Procedure Act and other applicable laws.

22 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
23 every right set forth above.

24 **CULPABILITY**

25 9. Respondent admits the truth of each and every charge and allegation in Accusation
26 No. 3601.

27 10. Respondent agrees that his Pharmacist License is subject to discipline and he agrees
28 to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

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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.

14. 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:

IT IS HEREBY ORDERED that Pharmacist License No. RPH 54284 issued to Respondent Serj Soukaz Markarian (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

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1 **1. Suspension**

2 As part of probation, respondent is suspended from the practice of pharmacy for sixty (60)
3 days beginning the effective date of this decision.

4 During suspension, respondent shall not enter any pharmacy area or any portion of the
5 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
6 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
7 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
8 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
9 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
10 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
11 and devices or controlled substances.

12 Respondent shall not engage in any activity that requires the professional judgment of a
13 pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy.
14 Respondent shall not perform the duties of a pharmacy technician or a designated representative
15 for any entity licensed by the board.

16 Subject to the above restrictions, respondent may continue to own or hold an interest in any
17 licensed premises in which he holds an interest at the time this decision becomes effective unless
18 otherwise specified in this order.

19 Failure to comply with this suspension shall be considered a violation of probation.

20 **2. Obey All Laws**

21 Respondent shall obey all state and federal laws and regulations.

22 Respondent shall report any of the following occurrences to the board, in writing, within
23 seventy-two (72) hours of such occurrence:

- 24 • an arrest or issuance of a criminal complaint for violation of any provision of the
25 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
26 substances laws;
- 27 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
28 criminal complaint, information or indictment;

- a conviction of any crime;
- discipline, citation, or other administrative action filed by any state or federal agency which involves respondent's pharmacist license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

Failure to timely report such occurrence shall be considered a violation of probation.

3. Report to the Board

Respondent shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the board.

4. Interview with the Board

Upon receipt of reasonable prior notice, respondent shall appear in person for interviews with the board or its designee, at such intervals and locations as are determined by the board or its designee. Failure to appear for any scheduled interview without prior notification to board staff, or failure to appear for two (2) or more scheduled interviews with the board or its designee during the period of probation, shall be considered a violation of probation.

5. Cooperate with Board Staff

Respondent shall cooperate with the board's inspection program and with the board's monitoring and investigation of respondent's compliance with the terms and conditions of his probation. Failure to cooperate shall be considered a violation of probation.

6. Continuing Education

Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the board or its designee.

1 **7. Notice to Employers**

2 During the period of probation, respondent shall notify all present and prospective
3 employers of the decision in case number 3601 and the terms, conditions and restrictions imposed
4 on respondent by the decision, as follows:

5 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
6 respondent undertaking any new employment, respondent shall cause his direct supervisor,
7 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
8 tenure of employment) and owner to report to the board in writing acknowledging that the listed
9 individual(s) has/have read the decision in case number 3601, and terms and conditions imposed
10 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)
11 submit timely acknowledgment(s) to the board.

12 If respondent works for or is employed by or through a pharmacy employment service,
13 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
14 licensed by the board of the terms and conditions of the decision in case number 3601 in advance
15 of the respondent commencing work at each licensed entity. A record of this notification must be
16 provided to the board upon request.

17 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
18 (15) days of respondent undertaking any new employment by or through a pharmacy employment
19 service, respondent shall cause his direct supervisor with the pharmacy employment service to
20 report to the board in writing acknowledging that he has read the decision in case number 3601
21 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
22 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

23 Failure to timely notify present or prospective employer(s) or to cause that/those
24 employer(s) to submit timely acknowledgments to the board shall be considered a violation of
25 probation.

26 "Employment" within the meaning of this provision shall include any full-time, part-
27 time, temporary, relief or pharmacy management service as a pharmacist or any position for

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1 which a pharmacist license is a requirement or criterion for employment, whether the
2 respondent is an employee, independent contractor or volunteer.

3 **8. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
4 **Designated Representative-in-Charge, or Serving as a Consultant**

5 During the period of probation, respondent shall not supervise any intern pharmacist, be the
6 pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board
7 nor serve as a consultant unless otherwise specified in this order. Assumption of any such
8 unauthorized supervision responsibilities shall be considered a violation of probation.

9 **9. Reimbursement of Board Costs**

10 As a condition precedent to successful completion of probation, respondent shall pay to the
11 board its costs of investigation and prosecution in the amount of \$5,657.50. Respondent shall
12 make said payments in accordance with a payment plan to be determined by the Board

13 There shall be no deviation from this schedule absent prior written approval by the board or
14 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
15 probation.

16 The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to
17 reimburse the board its costs of investigation and prosecution.

18 **10. Probation Monitoring Costs**

19 Respondent shall pay any costs associated with probation monitoring as determined by the
20 board each and every year of probation. Such costs shall be payable to the board on a schedule as
21 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
22 be considered a violation of probation.

23 **11. Status of License**

24 Respondent shall, at all times while on probation, maintain an active, current license with
25 the board, including any period during which suspension or probation is tolled. Failure to
26 maintain an active, current license shall be considered a violation of probation.

27 If respondent's license expires or is cancelled by operation of law or otherwise at any time
28 during the period of probation, including any extensions thereof due to tolling or otherwise, upon

1 renewal or reapplication respondent's license shall be subject to all terms and conditions of this
2 probation not previously satisfied.

3 **12. License Surrender While on Probation/Suspension**

4 Following the effective date of this decision, should respondent cease practice due to
5 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
6 respondent may tender his license to the board for surrender. The board or its designee shall have
7 the discretion whether to grant the request for surrender or take any other action it deems
8 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent
9 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
10 record of discipline and shall become a part of the respondent's license history with the board.

11 Upon acceptance of the surrender, respondent shall relinquish his pocket and wall license to
12 the board within ten (10) days of notification by the board that the surrender is accepted.
13 Respondent may not reapply for any license from the board for three (3) years from the effective
14 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
15 of the date the application for that license is submitted to the board, including any outstanding
16 costs.

17 **13. Notification of a Change in Name, Residence Address, Mailing Address or**
18 **Employment**

19 Respondent shall notify the board in writing within ten (10) days of any change of
20 employment. Said notification shall include the reasons for leaving, the address of the new
21 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
22 shall further notify the board in writing within ten (10) days of a change in name, residence
23 address, mailing address, or phone number.

24 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
25 phone number(s) shall be considered a violation of probation.

26 **14. Tolling of Probation**

27 Except during periods of suspension, respondent shall, at all times while on probation, be
28 employed as a pharmacist in California for a minimum of forty (40) hours per calendar month.

1 Any month during which this minimum is not met shall toll the period of probation, i.e., the
2 period of probation shall be extended by one month for each month during which this minimum is
3 not met. During any such period of tolling of probation, respondent must nonetheless comply
4 with all terms and conditions of probation.

5 Should respondent, regardless of residency, for any reason (including vacation) cease
6 practicing as a pharmacist for a minimum of forty (40) hours per calendar month in California,
7 respondent must notify the board in writing within ten (10) days of the cessation of practice, and
8 must further notify the board in writing within ten (10) days of the resumption of practice. Any
9 failure to provide such notification(s) shall be considered a violation of probation.

10 It is a violation of probation for respondent's probation to remain tolled pursuant to the
11 provisions of this condition for a total period, counting consecutive and non-consecutive months,
12 exceeding thirty-six (36) months.

13 "Cessation of practice" means any calendar month during which respondent is
14 not practicing as a pharmacist for at least forty (40) hours, as defined by Business and
15 Professions Code section 4000 et seq. "Resumption of practice" means any calendar
16 month during which respondent is practicing as a pharmacist for at least forty (40)
17 hours as a pharmacist as defined by Business and Professions Code section 4000 et
18 seq.

19 **15. Violation of Probation**

20 If a respondent has not complied with any term or condition of probation, the board shall
21 have continuing jurisdiction over respondent, and probation shall automatically be extended, until
22 all terms and conditions have been satisfied or the board has taken other action as deemed
23 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
24 to impose the penalty that was stayed.

25 If respondent violates probation in any respect, the board, after giving respondent notice
26 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
27 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
28 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If

1 a petition to revoke probation or an accusation is filed against respondent during probation, the
2 board shall have continuing jurisdiction and the period of probation shall be automatically
3 extended until the petition to revoke probation or accusation is heard and decided.

4 **16. Completion of Probation**

5 Upon written notice by the board or its designee indicating successful completion of
6 probation, respondent's license will be fully restored.

7 **17. Mental Health Examination**

8 Within thirty (30) days of the effective date of this decision, and on a periodic basis as may
9 be required by the board or its designee, respondent shall undergo, at his own expense,
10 psychiatric evaluation(s) by a board-appointed or board-approved licensed mental health
11 practitioner. The approved evaluator shall be provided with a copy of the board's Accusation and
12 decision. Respondent shall sign a release authorizing the evaluator to furnish the board with a
13 current diagnosis and a written report regarding the respondent's judgment and ability to function
14 independently as a pharmacist with safety to the public. Respondent shall comply with all the
15 recommendations of the evaluator if directed by the board or its designee.

16 If the evaluator recommends, and the board or its designee directs, respondent shall
17 undergo psychotherapy. Within thirty (30) days of notification by the board that a
18 recommendation for psychotherapy has been accepted, respondent shall submit to the board or its
19 designee, for prior approval, the name and qualification of a licensed mental health practitioner of
20 respondent's choice. Within thirty (30) days of approval thereof by the board, respondent shall
21 submit documentation to the board demonstrating the commencement of psychotherapy with the
22 approved licensed mental health practitioner. Should respondent, for any reason, cease treatment
23 with the approved licensed mental health practitioner, respondent shall notify the board
24 immediately and, within thirty (30) days of ceasing treatment therewith, submit the name of a
25 replacement licensed mental health practitioner of respondent's choice to the board for its prior
26 approval. Within thirty (30) days of approval thereof, respondent shall submit documentation to
27 the board demonstrating the commencement of psychotherapy with the approved replacement.

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1 Failure to comply with any requirement or deadline stated by this paragraph shall be considered a
2 violation of probation.

3 Upon approval of the initial or any subsequent licensed mental health practitioner,
4 respondent shall undergo and continue treatment with that therapist, at respondent's own expense,
5 until the therapist recommends in writing to the board, and the board or its designee agrees by
6 way of a written notification to respondent, that no further psychotherapy is necessary. Upon
7 receipt of such recommendation from the treating therapist, and before determining whether to
8 accept or reject said recommendation, the board or its designee may require respondent to
9 undergo, at respondent's expense, a mental health evaluation by a separate board-appointed or
10 board-approved evaluator. If the approved evaluator recommends that respondent continue
11 psychotherapy, the board or its designee may require respondent to continue psychotherapy.

12 Psychotherapy shall be at least once a week unless otherwise approved by the board.
13 Respondent shall provide the therapist with a copy of the board's Accusation and decision no
14 later than the first therapy session. Respondent shall take all necessary steps to ensure that the
15 treating therapist submits written quarterly reports to the board concerning respondent's fitness to
16 practice, progress in treatment, and other such information as may be required by the board or its
17 designee.

18 If at any time the approved evaluator or therapist determines that respondent is unable to
19 practice safely or independently as a pharmacist, the licensed mental health practitioner shall
20 notify the board immediately by telephone and follow up by written letter within three (3)
21 working days. Upon notification from the board or its designee of this determination, respondent
22 shall be automatically suspended and shall not resume practice until notified by the board that
23 practice may be resumed.

24 **18. Pharmacists Recovery Program (PRP)**

25 Within thirty (30) days of the effective date of this decision, respondent shall contact the
26 Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll,
27 successfully participate in, and complete the treatment contract and any subsequent addendums as
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1 recommended and provided by the PRP and as approved by the board or its designee. The costs
2 for PRP participation shall be borne by the respondent.

3 If respondent is currently enrolled in the PRP, said participation is now mandatory and as of
4 the effective date of this decision is no longer considered a self-referral under Business and
5 Professions Code section 4362(c)(2). Respondent shall successfully participate in and complete
6 his current contract and any subsequent addendums with the PRP.

7 Failure to timely contact or enroll in the PRP, or successfully participate in and complete
8 the treatment contract and/or any addendums, shall be considered a violation of probation.

9 Probation shall be automatically extended until respondent successfully completes the PRP.

10 Any person terminated from the PRP program shall be automatically suspended by the board.

11 Respondent may not resume the practice of pharmacy until notified by the board in writing.

12 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
13 licensed practitioner as part of a documented medical treatment shall result in the automatic
14 suspension of practice by respondent and shall be considered a violation of probation.

15 Respondent may not resume the practice of pharmacy until notified by the board in writing.

16 During suspension, respondent shall not enter any pharmacy area or any portion of the
17 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
18 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
19 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
20 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
21 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
22 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
23 and controlled substances. Respondent shall not resume practice until notified by the board.

24 During suspension, respondent shall not engage in any activity that requires the
25 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
26 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
27 designated representative for any entity licensed by the board.

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1 Subject to the above restrictions, respondent may continue to own or hold an interest in any
2 licensed premises in which he holds an interest at the time this decision becomes effective unless
3 otherwise specified in this order.

4 Failure to comply with this suspension shall be considered a violation of probation.

5 Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not
6 timely paid to the PRP shall constitute a violation for probation. The board will collect unpaid
7 administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

8 **19. Random Drug Screening**

9 Respondent, at his own expense, shall participate in random testing, including but not
10 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
11 screening program as directed by the board or its designee. Respondent may be required to
12 participate in testing for the entire probation period and the frequency of testing will be
13 determined by the board or its designee. At all times, respondent shall fully cooperate with the
14 board or its designee, and shall, when directed, submit to such tests and samples for the detection
15 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its
16 designee may direct. Failure to timely submit to testing as directed shall be considered a violation
17 of probation. Upon request of the board or its designee, respondent shall provide documentation
18 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
19 a necessary part of the treatment of the respondent. Failure to timely provide such documentation
20 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
21 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
22 shall be considered a violation of probation and shall result in the automatic suspension of
23 practice of pharmacy by respondent. Respondent may not resume the practice of pharmacy until
24 notified by the board in writing.

25 During suspension, respondent shall not enter any pharmacy area or any portion of the
26 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
27 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
28 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act

1 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
2 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
3 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
4 and controlled substances. Respondent shall not resume practice until notified by the board.

5 During suspension, respondent shall not engage in any activity that requires the
6 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
7 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
8 designated representative for any entity licensed by the board.

9 Subject to the above restrictions, respondent may continue to own or hold an interest in any
10 licensed premises in which he holds an interest at the time this decision becomes effective unless
11 otherwise specified in this order.

12 Failure to comply with this suspension shall be considered a violation of probation.

13 **20. Abstain from Drugs and Alcohol Use**

14 Respondent shall completely abstain from the possession or use of alcohol, controlled
15 substances, dangerous drugs and their associated paraphernalia except when the drugs are
16 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon
17 request of the board or its designee, respondent shall provide documentation from the licensed
18 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the
19 treatment of the respondent. Failure to timely provide such documentation shall be considered a
20 violation of probation. Respondent shall ensure that he is not in the same physical location as
21 individuals who are using illicit substances even if respondent is not personally ingesting the
22 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
23 not supported by the documentation timely provided, and/or any physical proximity to persons
24 using illicit substances, shall be considered a violation of probation.

25 **21. Prescription Coordination and Monitoring of Prescription Use**

26 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
27 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
28 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the facts and

1 circumstances giving rise to Accusation 3601 and who will coordinate and monitor any
2 prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs.
3 The approved practitioner shall be provided with a copy of the board's Accusation and decision.
4 A record of this notification must be provided to the board upon request. Respondent shall sign a
5 release authorizing the practitioner to communicate with the board about respondent's
6 treatment(s). The coordinating physician, nurse practitioner, physician assistant, or psychiatrist
7 shall report to the board on a quarterly basis for the duration of probation regarding respondent's
8 compliance with this condition. If any substances considered addictive have been prescribed, the
9 report shall identify a program for the time limited use of any such substances. The board may
10 require that the single coordinating physician, nurse practitioner, physician assistant or
11 psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine.
12 Should respondent, for any reason, cease supervision by the approved practitioner, respondent
13 shall notify the board immediately and, within thirty (30) days of ceasing treatment, submit the
14 name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist of
15 respondent's choice to the board or its designee for its prior approval. Failure to timely submit
16 the selected practitioner or replacement practitioner to the board for approval, or to ensure the
17 required reporting thereby on the quarterly reports, shall be considered a violation of probation.

18 If at any time an approved practitioner determines that respondent is unable to practice
19 safely or independently as a pharmacist, the practitioner shall notify the board immediately by
20 telephone and follow up by written letter within three (3) working days. Upon notification from
21 the board or its designee of this determination, respondent shall be automatically suspended and
22 shall not resume practice until notified by the board that practice may be resumed.

23 During suspension, respondent shall not enter any pharmacy area or any portion of the
24 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
25 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
26 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
27 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
28 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the

1 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
2 and controlled substances. Respondent shall not resume practice until notified by the board.

3 During suspension, respondent shall not engage in any activity that requires the
4 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
5 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
6 designated representative for any entity licensed by the board.

7 Subject to the above restrictions, respondent may continue to own or hold an interest in any
8 licensed premises in which he holds an interest at the time this decision becomes effective unless
9 otherwise specified in this order.

10 Failure to comply with this suspension shall be considered a violation of probation.

11 **22. Community Services Program**

12 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
13 board or its designee, for prior approval, a community service program in which respondent shall
14 provide free health-care related services on a regular basis to a community or charitable facility or
15 agency for at least sixty (60) hours per year for the first three (3) years of probation. Within thirty
16 (30) days of board approval thereof, respondent shall submit documentation to the board
17 demonstrating commencement of the community service program. A record of this notification
18 must be provided to the board upon request. Respondent shall report on progress with the
19 community service program in the quarterly reports. Failure to timely submit, commence, or
20 comply with the program shall be considered a violation of probation.

21 **23. No New Ownership of Licensed Premises**

22 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
23 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
24 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or
25 has any legal or beneficial interest in, or serves as a manager, administrator, member, officer,
26 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
27 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold

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1 that interest, but only to the extent of that position or interest as of the effective date of this
2 decision. Violation of this restriction shall be considered a violation of probation.

3 **24. Tolling of Suspension**

4 During the period of suspension, respondent shall not leave California for any period
5 exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess
6 of the (10) days during suspension shall be considered a violation of probation. Moreover, any
7 absence from California during the period of suspension exceeding ten (10) days shall toll the
8 suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days
9 respondent is absent from California. During any such period of tolling of suspension,
10 respondent must nonetheless comply with all terms and conditions of probation.

11 Respondent must notify the board in writing within ten (10) days of departure, and must
12 further notify the board in writing within ten (10) days of return. The failure to provide such
13 notification(s) shall constitute a violation of probation. Upon such departure and return,
14 respondent shall not resume the practice of pharmacy until notified by the board that the period of
15 suspension has been satisfactorily completed.

16 **25. Ethics Course**

17 Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll
18 in a course in ethics, at respondent's expense, approved in advance by the board or its designee.
19 Failure to initiate the course during the first year of probation, and complete it within the second
20 year of probation, is a violation of probation.

21 Respondent shall submit a certificate of completion to the board or its designee within five
22 days after completing the course.

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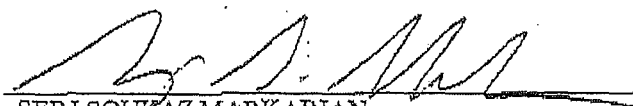
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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Herbert L. Weinberg. I understand the stipulation and the effect it
4 will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary
5 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
6 of the Board of Pharmacy.

7
8 DATED: 2/28/12


9 SERJ SOUKAZ MARKARIAN
Respondent

10 I have read and fully discussed with Respondent Serj Soukz Markarian the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.

13 DATED: 2/29/12


14 Herbert L. Weinberg
Attorney for Respondent

15
16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

19
20 Dated:

Respectfully submitted,

21 KAMALA D. HARRIS
Attorney General of California
22 KAREN B. CHAPPELLE
Supervising Deputy Attorney General

23
24 WILLIAM D. GARDNER
25 Deputy Attorney General
26 Attorneys for Complainant

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DATED: _____
SERJ SOUKAZ MARKARIAN
Respondent

DATED: _____
Herbert L. Weinberg
Attorney for Respondent

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

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1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 KIMBERLEY J. BAKER-GUILLEMET
Deputy Attorney General
4 State Bar No. 242920
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2533
6 Facsimile: (213) 897-2804
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:

Case No. 3601

11 **SERJ SOUKAZ MARKARIAN**
12 **7766 N. Glenoaks Blvd.**
13 **Burbank, CA 91504**
Pharmacist License No. RPH 54284

A C C U S A T I O N

14 Respondent.

15
16 Complainant alleges:

17 **PARTIES**

18 1. Virginia K. Herold (Complainant) brings this Accusation solely in her official
19 capacity as the Executive Officer of the California State Board of Pharmacy.

20 2. On or about March 20, 2003, the Board of Pharmacy issued Pharmacist License
21 Number RPH 54284 to Serj Soukaz Markarian (Respondent). The Pharmacist License was in full
22 force and effect at all times relevant to the charges brought herein and will expire on September
23 30, 2012, unless renewed.

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1 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
2 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
3 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
4 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
5 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
6 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
7 labeled with the name and address of the supplier or producer.

8 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a
9 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs
10 and devices."

11 8. Section 4301 of the Code states:

12 "The board shall take action against any holder of a license who is guilty of unprofessional
13 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
14 Unprofessional conduct shall include, but is not limited to, any of the following:

15

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

19

20 "(l) The conviction of a crime substantially related to the qualifications, functions, and
21 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
22 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
23 substances or of a violation of the statutes of this state regulating controlled substances or
24 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
25 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
26 The board may inquire into the circumstances surrounding the commission of the crime, in order
27 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
28 or dangerous drugs, to determine if the conviction is of an offense substantially related to the

1 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
2 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
3 of this provision. The board may take action when the time for appeal has elapsed, or the
4 judgment of conviction has been affirmed on appeal or when an order granting probation is made
5 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
6 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
7 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
8 indictment.

9 REGULATORY PROVISIONS

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

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

17 COST RECOVERY

18 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
19 administrative law judge to direct a licensee 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.

22 DRUGS

23 11. Pregabalin, also known by the brand name Lyrica, is a Schedule V, non-narcotic
24 controlled substance under Health and Safety Code section 11058, and is classified as a
25 dangerous drug pursuant to Business and Professions Code section 4022.

26 12. Eszopiclone, also known by the brand name Lunesta, is a Schedule IV, non-narcotic
27 controlled substance under Health and Safety Code section 11057, and is classified as a
28 dangerous drug pursuant to Business and Professions Code section 4022.

1 13. Tadalafil, also known by the brand name Cialis, is not a scheduled drug, but is
2 classified as a dangerous drug pursuant to Business and Professions Code section 4022.

3 14. Celecoxib, also known by the brand name Celebrex, is not a scheduled drug, but is
4 classified as a dangerous drug pursuant to Business and Professions Code section 4022.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Substantially Related Convictions)**

7 15. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision
8 (l), of the Code, in conjunction with California Code of Regulation, title 16, section 1770, in that
9 Respondent was convicted of a crime substantially related to the qualifications, functions or
10 duties of a licensed pharmacist. Specifically, on or about September 2, 2008, after pleading nolo
11 contendere, Respondent was convicted of one misdemeanor count of violating Penal Code
12 Section 602.5(B) [entering dwelling without consent] in the criminal proceeding entitled *The*
13 *People of the State of California v. Serj Soukaz Markarian* (Super. Ct. Los Angeles County, 2008,
14 No. 7PY07737). Respondent was placed on probation for 36 months and was ordered to pay a
15 fine.

16 16. The circumstances are that on or about August 17, 2007, while working as a
17 pharmacist at CVS Pharmacy, Respondent was observed concealing the following
18 pharmaceuticals in his bag: Cialis 20 mg, Lyrica 50 mg, Lunesta 3mg and Celebrex 100 mg. A
19 CVS store manager waited for Respondent to exit the store at closing time and contacted him in
20 the parking lot. The store manager checked Respondent's bags and located five (5) bottles of
21 pharmaceuticals that had been taken from the pharmacy without permission and had not been
22 paid for nor prescribed to Respondent.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct: Dishonest Act)**

25 17. Respondent is subject to disciplinary action under section 4301, subdivision (f) of the
26 Code in that he committed an act involving moral turpitude, dishonesty, fraud, deceit or
27 corruption. Complainant refers to, and by this reference incorporates, the allegations set forth in
28 paragraphs 15 and 16, as though set forth fully.

1 THIRD CAUSE FOR DISCIPLINE

2 (Possession of Controlled Substance Without a Prescription)

3 18. Respondent is subject to disciplinary action under section 4060 of the Code, in that he
4 possessed controlled substances that were not furnished to him upon prescription of a physician.
5 Complainant refers to, and by this reference incorporates, the allegations set forth in paragraphs
6 15 and 16, as though set forth fully.

7 FOURTH CAUSE FOR DISCIPLINE

8 (Administer/Furnish Controlled Substance to Self)

9 19. Respondent is subject to disciplinary action under section 11170 of the Health and
10 Safety Code in that he prescribed, administered or furnished a controlled substance to himself.
11 Complainant refers to, and by this reference incorporates, the allegations set forth in paragraphs
12 15 and 16, as though set forth fully.

13 PRAYER

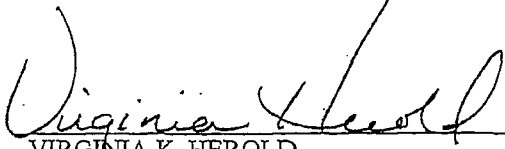
14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
15 and that following the hearing, the Board of Pharmacy issue a decision:

16 1. Revoking or suspending Pharmacist License Number RPH 54284, issued to Serj
17 Soukaz Markarian;

18 2. Ordering Serj Soukaz Markarian to pay the Board of Pharmacy the reasonable costs
19 of the investigation and enforcement of this case, pursuant to Business and Professions Code
20 section 125.3;

21 3. Taking such other and further action as deemed necessary and proper.

22
23
24 DATED: 6/6/11


VIRGINIA K. HEROLD
Executive Officer
California State Board of Pharmacy
State of California
Complainant

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